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REPORT

FROM THE

F. Hargrave

COMMITTEE

TO WHOM

The PETITION of JOHN TOUCHET and JOHN IRVING,
Agents for the *Britiſh* Subjects reſiding in the Provinces of
Bengal, Bahar, and *Oriſſa*, and their ſeveral Dependencies,
whoſe Names are ſubſcribed to the Petition thereinafter
ſet forth;

MVSEVM BRITANNICVM

AND ALSO

The PETITION of WARREN HASTINGS, Eſq; Governor
General, and of PHILIP FRANCIS and EDWARD WHELER,
Eſqrs. Counſellors for the Government of the Preſidency
of *Fort William*, in *Bengal*;

AND ALSO

The PETITION of the UNITED COMPANY OF MERCHANTS
of *England*, trading to the *Eaſt Indies*;

WERE SEVERALLY REFERRED.

Printed in the Year M.DCC.LXXXI.

FH
MVSEVM
BRITANNICVM

R E P O R T

FROM THE

COMMITTEE, &c.

The Committee to whom the Petition of John Touchet and John Irving, Agents for the Britiſh Subjects reſiding in the Provinces of Bengal, Bahar, and Oriſſa, and their ſeveral Dependencies, whoſe Names are ſubſcribed to the Petition thereinafter ſet forth; and alſo the Petition of Warren Haſtings, Eſquire, Governor General, and of Philip Francis and Edward Wheler, Eſquires, Counſellors for the Government of the Preſidency of Fort William, in Bengal; and alſo the Petition of the United Company of Merchants of England trading to the Eaſt Indies; were ſeverally referred; have, purſuant to the Orders of the Houſe, examined the Matters of the ſaid Petitions; and, in Support of the Allegations thereof,

THE Act, made in the Thirteenth Year of the Reign of His preſent Majeſty, for eſtabliſhing certain Regulations for the better Management of the Affairs of the Eaſt India Company, as well in India as in Europe; and alſo the Letters Patent, eſtabliſhing a Supreme Court of Judicature at Fort William, in Bengal, bearing Date the 26th Day of March, in the 14th Year of the Reign of His preſent Majeſty, were read.—A Copy of which ſaid Charter, as alſo a Copy of the Rules of Practice eſtabliſhed by the Supreme Court, are hereunto annexed in the General Appendix, Nº 1, 2.

Your Committee having taken into Conſideration the above Petitions of the Governor General and Council of Bengal, and of the Britiſh Inhabitants of the Provinces of Bengal, Bahar, and Oriſſa, relative to the Proceedings and Claims of the Supreme Court of Judicature (ſo far as thoſe Proceedings and Claims are alledged to affect the Exerciſe of the Powers of legal Government, the Peace and Security of the Provinces, the Adminiſtration of Civil and Criminal Juſtice, the Collection of the public Revenues, and the Inſtitutions, Cuſtoms, and Prejudices of the native Inhabitants, as well as the Rights and Privileges of Britiſh Subjects reſiding in that Part of India.)

And, in order to collect, and lay before the Houſe, a Body of Facts, which might ſerve as a Foundation for ſuch Proviſion as the Wiſdom of Parliament may ſee fit to make, towards the future Tranquility and Welfare of theſe Provinces, in every Point of View ſo important to this Kingdom, Your Committee have read a Number of Papers tranſmitted from India to the Court of Directors, and to the Office of Secretary of State for the Southern Department; and have alſo carefully examined ſeveral Witneſſes, competent to afford full Information on all the Objects of Inquiry which Your Committee have been empowered to bring under their View.

On theſe Witneſſes Your Committee think it proper to obſerve, that although they are all Perſons minutely converſant in the Affairs of Bengal, yet ſome of them appear to be, directly or indirectly, concerned in ſeveral of the Tranſactions which have brought on the late Diſputes. Some alſo who are to return to India, though not themſelves Parties, may become, on account of their Evidence, obnoxious to thoſe who are engaged in the preſent Contentions, and who ſtill remain there in different Deſcriptions of Power. Others too have ſtood, and (if any Prejudice does ariſe from the relative Situations of Men in Authority in that Country) may again ſtand, in Situations which may poſſibly render them as much prejudiced, as any of the preſent Parties, againſt the Powers claimed and exerciſed by the Supreme Court.

Theſe Obſervations, with regard to the Evidence, Your Committee held it their Duty to ſuggeſt; but the Committee did not think themſelves juſtified in rejecting any Teſtimony, on account of Circumſtances which ſeem unavoidable in ſo narrow a Society as that formed by the Natives of Great Britain reſident in Bengal; nor in withholding from the Houſe on their own Opinion, any Matter of Information derived from the only Source from whence the neceſſary Information can be drawn.

A Difficulty nearly of the ſame Nature occurred, with regard to the written Evidence; a great Part of the Papers tranſmitted, not having been previouſly communicated to each other by the contending Parties—The Advantage, therefore, to be derived from their reciprocal Corrections and Explanations, from their Denials of unproved, and their Supplements of defective Facts, is thereby inevitably loſt to the Committee, and to the Houſe.

It appears expedient alſo, to ſtate to the Houſe, that no Agent hath been appointed, or did attend the Committee, on the Part of the Supreme Court of Judicature.—No verbal Evidence for them was pointed out to your Committee, except a Suggeſtion, that they wiſhed Mr. Barwell, late one of the Council General, to be examined; and him Your Committee did examine accordingly.—For the reſt, the whole of the Matter alledged in Favour of their Claims, or in Juſtification of the Proceedings of that Court, is contained in the Letters of the Judges to the Court of Directors, in their Letters to the Secretaries of State, and in their Arguments (as they are taken) in giving Judgment on ſundry Caſes tried before them.

But in the Midſt of theſe Difficulties, Your Committee have the Satisfaction to find, that no Controverſy exiſts concerning the leading Facts which have given riſe to the Diſpute. The principal Difference between the Parties, conſiſting in the Motives aſſigned for the Acts mutually complained of, and the Tendency of thoſe Acts to the public Benefit or Prejudice.—And it is remarkable, that an unuſual Degree of Conſiſtency or Uniformity prevails in the Evidence delivered by ſo many Perſons, on the Cuſtoms, Manners, and Diſpoſitions of the Natives of India; and Your Committee conceive, that this Body of Evidence, together with the other Materials contained in this Report, will fully enable the Houſe to determine on the Fitneſs or Unfitneſs of the Application of the Laws of England to the Government of that People, or in deciding on the Extent of the Juriſdiction of the Supreme Court, for the Purpoſe of ſuperſeding or controlling, or making it ſupplemental to the Country Courts which now act in Bengal, according to the Forms, and on the Principles long prevalent in that Part of India, which are totally different from, and in many Reſpects repugnant to, the Laws and Uſages of this Kingdom.

Your Committee applied themſelves in examining the Matter of the Petitions referred to them, to the general Adminiſtration, 1ſt, of Civil Juſtice—2dly, of Criminal Juſtice—3dly, of Juſtice in Revenue Matters, or thoſe which aroſe from Obligations contracted on account of Revenue.—This general Enquiry has naturally taken in the Deſcriptions of People, as well as the Quality of the Cauſes, which became Objects of the diſputed Juriſdiction of the Supreme Court.

But as the Principles which regulated the Adminiſtration of Juſtice under theſe ſeveral Heads, are to be found in certain Cauſes of Importance, litigated in the Supreme Court, and are beſt elucidated by them, Your Committee thought it their Duty to report particularly the Facts which have appeared in the Agitation of theſe Cauſes; ſtating the others in a more ſummary Manner, and ſolely to afford to the Houſe a View of the Extent and Operation of the Principles laid down in the leading Cauſes: They therefore directed their principal Attention to the Patna Cauſe—the Dacca Cauſe—the Coſſijurah Cauſe—and the Effects of the Execution of the Rajah Nundcomar, on a Criminal Charge, proſecuted to Conviction and Sentence under the Statute Law of England.

Your Committee find, That the Differences between the Judges of the Supreme Court and the Governor General and Council, which have lately broken out into an open and avowed Reſiſtance by a Military Power, to the Proceſs of the Law, began very early after the Arrival of the Judges at Calcutta; and that, after having propoſed, without Effect, various Arrangements amongſt themſelves, for ſettling the Matters in Diſpute, the Governor General and Council made, in the Courſe of their Correſpondence, various Repreſentations againſt the Proceedings of the Judges of the Supreme Court, and the Principles laid down by them relative to the Extent and Objects of their Juriſdiction; and ſtated, in a very ſtrong Manner, the Effect which they apprehended would reſult from their Perſeverance in ſuch Proceedings and Principles.

Your Committee find, That the Directors of the Eaſt India Company, in Conſequence of the ſaid

Repreſentations, on the 19th November 1777, ſent a Letter to Lord Weymouth, Secretary of State for the Southern Department.—In this Letter they ſtate,

Firſt, That the Court has extended its Juriſdiction to Perſons whom it does not appear to have been the Intention of the King or Parliament to ſubmit to its Juriſdiction.

Secondly, That it has taken Cognizance of Matters, both originally and pending the Suit, the excluſive Cognizance of which, they humbly conceive it to have been the Intention of the King and Parliament to leave to other Courts.

Thirdly, That it has claimed a Right of demanding Evidence, and of inſpecting Records, which they conceive it had no Right to demand or inſpect.

Fourthly, That the Judges conſider the Criminal Law of England as in force, and binding, upon the Natives of Bengal, though utterly repugnant to the Laws and Cuſtoms by which they have formerly been governed.

Under each of theſe Heads, the Directors of the Eaſt India Company have ſtated a Variety of Facts, and have added Arguments with reſpect to the Conſequences likely to reſult from the Juriſdiction aſſumed and exerciſed by the Supreme Court of Judicature.

This Letter, containing a Summary of all the principal Matters diſputed or complained of in the Adminiſtration of Juſtice, from the Arrival of the Judges in India to the Beginning of the Year 1777, Your Committee beg Leave particularly to refer the Houſe to a Copy thereof, inſerted at length, with its References, in the General Appendix, N° 3, for a View of the Riſe and Progreſs of theſe Diſputes.

Your Committee then proceeded to the Cauſe of Nadarah Begum, againſt Behadar Beg, Cauzee Sadhee, Muftee Baractoolah, and Muftee Gullaum Mucdoom, generally known by the Name of "The Patna Cauſe."

This Cauſe appears, both in ſome of the collateral Points determined in it, and in its general Principle and final Iſſue, to have involved Conſequences very important to the Happineſs of the native Inhabitants, and to the Intereſts of the Company; inſomuch, that the Governor General and Council were unanimouſly of Opinion, that the Nature as well as Importance of the Suit, rendered it incumbent on them, on the Part of the Company, to undertake its Defence; and a Majority of that Board were afterwards induced, by the ſame Conſiderations, to extend ſtill further their Protection to the Defendants.

The Cauſe having thus attracted great public Notice, and been made the Subject of various and of repeated Diſcuſſion, the Proceedings ſwelled to a great Bulk, and the Materials before the Committee have been very voluminous; to the whole of which they have, however, found it neceſſary, to reſort with Diligence, in order to accompliſh what they have aimed at in their Report of this Cauſe; which is to lay before the Houſe ſuch an Abſtract of the Caſe as may enable them to underſtand clearly, and to form a Judgment on ſuch Points ariſing out of it, as may be thought material for its Conſideration;—without, however, burthening the Attention of the Houſe with Matter which relates only to the particular Merits of this Cauſe, and does not affect the general Subject of the Adminiſtration of Juſtice; and next to omit nothing which the Parties in the Diſputes growing out of this Cauſe, may think material for their Juſtification. The Committee have endeavoured to throw into the Body of their Report, all that ſeems to them neceſſary for obtaining the Firſt of theſe Objects; and for the Second, they have found themſelves under the Neceſſity of inſerting very largely in the Appendix; for the Bulk of which it may be proper to offer ſome Apology.—The Diſcuſſion of this Cauſe, having occaſioned a Difference between the Governor General and Council, and the Supreme Court, was carried on with great Warmth; and throughout the Proceedings themſelves, and the various Comments upon them, much Cenſure was thrown reciprocally on every Deſcription of Perſons concerned, whether as Parties, Witneſſes, Judges, or Members of the Adminiſtration: It ſeemed therefore neceſſary, for an impartial View of the Diſpute, to give in the Appendix, not only the original Documents in the Cauſe, but alſo the different Repreſentations and Reaſonings of the various Parties, ſo far as the Papers before the Committee enabled them ſo to do.—The moſt material, as well as the moſt bulky of thoſe Papers, are the Report of Mr. Bogle, Commiſſioner of Law Suits to the Company, and the Speech delivered by the Chief Juſtice on giving Judgment in the Cauſe.—Theſe Two Papers, which contain indeed a great deal of the ſame Matter, do however alſo compriſe the Subſtance of all that is diſputed on each Side; and the Committee have been unwilling to attempt an Abridgement of either of them, judging that they may be welcome to the Houſe entire, notwithſtanding their great Length, and the frequent Repetitions neceſſarily found in Two Papers, treating of and exhauſting the ſame Subject.

This Action was brought by Nadarah Begum, a Widow, againſt her Huſband's Nephew, Behadar Beg, and againſt the Cauzee of Patna, and Two Muftees of the Provincial Court of Juſtice there, for Injuries alledged to have been done to her, in conſequence of the Orders, and of a Decree of the Chief and Council at Patna, acting as a Court of Juſtice.

The Committee will report more fully in another Place, what they have learnt reſpecting the Nature of the Office and Duties of Cauzee and Muftee; but think it proper to premiſe here, that they were formerly Judges in the Mahomedan Courts, that they are Men ſkilled in the Mahomedan Law, and are under the preſent Eſtabliſhment in Bengal, Officers or Aſſeſſors of the Country Courts of Juſtice.

The Committee will begin with a ſhort Account of the Circumſtances which gave riſe to the Proceedings in the Council at Patna, complained of by Nadarah Begum.

Shabaz Beg Cawn came from Cabool, his native Country, to Bengal, to ſeek his Fortune; and having entered into the Service of the Company, roſe to the Command of a Body of Horſe.—In the Courſe of his Services, he obtained from the Great Mogul, a Grant of Free Lands, called an Ultumghaw, in the Province of Bahar; and having acquired a competent Fortune, retired from the Army, and ſettled at Patna—About this Time, being advanced in Years, he married Nadarah Begum, by whom he had no Children.—His Brother, Allum Beg, came to Patna; and after reſiding ſome Time with him, on his Return to Cabool, either left or ſent Behadar Beg, one of his Sons, to live with Shabaz Beg Cawn.—Behadar Beg remained accordingly in his Family, from that Time to the old Man's Death, which happened ſeveral Years after, in November 1776.—Shabaz Beg Cawn having died without Iſſue, his Widow, Nadarah Begum, and his Nephew, Behadar Beg, diſputed his Inheritance, each pretending to the Whole; the Widow, under a Will and other Deeds, alledged to have been executed by the Deceaſed; and the Nephew, as his adopted Son and Heir;—theſe Claims gave riſe to the following Proceedings.

Behadar Beg preferred a Petition to the Chief and Council at Patna, on the Second of January, 1777, ſetting forth his Claim; and after ſtating that the Widow was removing and ſecreting the Effects, concluding with a Prayer, that Orders ſhould be given to prevent the Removal of the Goods, and to recover ſuch as had already been carried away; and that the Cauzee ſhould be directed to aſcertain his Right, and acquaint the Council therewith. Patna Appendix, N° 1.

The Council thereupon gave Directions to the Cauzee, and other Law Officers, to take an Account of the Eſtate and Effects of the Deceaſed, to collect them together, and to take Charge of them jointly with the Parties, 'till a Diviſion could be made to allot the Shares of each Claimant, ſtrictly adhering to the Muſſulman Law of Inheritance; and to give into the Council an Account of their Proceedings.—This Order was communicated to the Cauzee and Two Muftees, by a Precept or Perwannah, in the Perſian Language.

It appears, that in Obedience to this Precept, the Cauzee and Muftees proceeded to the Houſe of the Deceaſed; and, after ſome Reſiſtance on the Part of the Widow, executed their Orders, by taking an Account of the Effects, ſecuring ſuch Part of them as remained on the Premiſſes, and inveſtigating the Rights of the Parties; Cojah Zekeriah, another Nephew of the deceaſed Shabaz Beg, who lived in the Houſe, and was in the Confidence of Nadarah Begum, acted, and was conſidered throughout, as her Attorney.—It muſt be obſerved, however, as this Circumſtance is relied on in a ſubſequent Part of the Proceedings, that when the Cauzee deſired the Begum to appoint a Vakeel (or Attorney) on her Part, and pointed out Cojah Zekeriah as a proper Perſon, ſhe poſitively refuſed to appoint any, but ſent her Seal, and told them, they might if they pleaſed appoint him; Zekeriah likewiſe refuſed to accept of the Office; but his Appointment being ſealed and delivered to the Cauzee, he acted from that Time as Nadarah's Attorney.

On the 20th of January, 1777, the Cauzee and Muftees delivered in their Report; in which, after ſtating the Grounds of the reſpective Claims, and the Evidence, at ſome Length, as adduced on either Side, they deliver their Opinion, That, excluſive of the Ultumghaw, which does not compoſe Part of the Inheritance, all the Property of the Deceaſed ſhould be divided into Four Shares; whereof Three ſhould be given to Behadar Cawn, his Father, being the legal Heir of the Deceaſed, and himſelf the adopted Son; and the remaining One to Nadarah the Widow.—Theſe Proceedings of the Cauzee and Muftees having become a principal Ground of the ſubſequent Judgment of the Supreme Court, the Committee beg leave to refer, in this Place, to a Tranſlation of the Report itſelf, in the Patna Appendix, N° 2.

On the Receipt of this, the Vakeels of both Parties were ordered to attend; and after ſome verbal Examination, as is ſtated by Mr. Law in a Letter to the Governor General, the Council, by a Perwannah directed to the Cauzee and Muftees, ordered their Decree, for the Diviſion of the Effects, to be carried into Execution, and the Ultumghaw, according to Cuſtom, to be delivered over to the Charge of Behadar Cawn, who was to allow the Widow One-fourth of the Produce for her Maintenance.

The Council further, on Conſideration of the Circumſtances reported reſpecting the Removal of the Effects, and the Forgery of the Deeds produced on the Part of the Widow, agreed, “That Cojah Zekeriah, Ghyrut Beg, Ennuyet Alla Beg, Cauzee Muzzoom, and Mahomed Evaz, be put in Confinement till the Effects which are ſaid to have been ſecreted, are produced; and that after this is done, and the Diviſion made, they be delivered over to the Phouſdarry to take their Trial for Forgery, of which the Will and the Ekrar Aum (Two Inſtruments) produced to invalidate the Claim of Behadar Cawn, bear evident Marks.” Patna Appendix N° 3, 4, and 5.

The Widow reſiſting the Execution of the foregoing Decree of Diviſion, and the Cauzee and Muftees proceeding to enforce it, ſhe withdrew herſelf, contrary to their Deſire and Remonſtrance, from the Houſe, to a Place called the Durgah of Shah Arzaum, in the Neighbourhood of Patna; the Habitation of a religious Order of Men, known by the Name of Faquiers; and carried with her the Ultumghaw Sunnuds, or Grants, and the Female Slaves.—The Cauzee and Muftees valued the Effects remaining, by Appraiſers appointed on each Side, and divided them into Four Shares, of which One being choſen by Zekeriah was allotted to the Widow, and ſet apart for her Uſe in a Room, together with the Jewels and ſome other Articles, that were not divided. She refuſed, however, to accept of this Share, and the Effects were never taken away by her.—The remaining Shares were taken Poſſeſſion of by Behadar Beg, in Truſt for his Father.

It appears, that the Cauzee and Muftees not having been able to obtain from the Widow the Title Deeds of the Ultumghaw, and the Female Slaves, Behadar Beg preſented a Petition to the Council, ſtating, That ſhe refuſed Compliance with the Decree, and had abſconded contrary to the Muſſulman Cuſtom, which reflected Diſgrace on the Family; and praying, that ſhe might be delivered up to his Care, as Repreſentative of the Heir.

The Council thereupon agreed, That Behadar Beg’s Requeſt be complied with, and that the Widow be conſtrained to return to the Houſe under his Protection, and deliver up the Sunnuds and other Papers of the Eſtate.

On the 20th of March following, Behadar Beg preſented another Petition, complaining, That the Cauzee had not yet complied with the Orders of the Board; whereupon the Council agreed, That an Order be written to the Cauzee, poſitively directing him immediately to comply with the former Orders, and reprimanding him for his Delay.

The Cauzee, in Vindication of himſelf, repreſented, by an Arzee or Memorial, That he had made frequent Demands for that Purpoſe; to which the Widow had paid no Attention; and that he had placed Hircarrahs to watch her.—He likewiſe repreſented it as his Opinion “That according to the Muſſulman Law, it would be proper, under the preſent Circumſtances, to employ Force; and that it has been cuſtomary to lay Reſtraint upon, and confine, any refractory Perſon, to procure the Right of another, that he may not loſe it.”

Upon this Memorial and Repreſentation, the Council, on the 3d of April, ordered a Guard of Sepoys to be placed over the Widow; and that no Perſon be ſuffered to have Intercourſe with her till the Slave Women ſhould be given up.—This Guard was continued till the 5th of May following, when the Widow, ſtill refuſing Compliance, it was withdrawn.

The Widow, who complained of Injuſtice in the Decree of the Council, alledged alſo a Variety of Inſults and perſonal Injuries, offered to her in the Execution of the different Orders of that Board; which being denied on the other Part, and variouſly related in the Depoſitions of the Witneſſes; the Committee beg leave to refer on this Head to the Papers in the Appendix.

Theſe Tranſactions, at Patna, gave Occaſion to the following Proceedings in the Supreme Court:

Nadarah Begum brought an Action of Treſpaſs, vi et armis, againſt Behadar Beg, Cauzee Sadhee, Muftee Baractoolah, and Muftee Gullaum Mucdoom; the Cauzee and Muftees to whom the Provincial Council had referred the Cauſe at Patna.

The Action was for Aſſault and Battery, falſe Impriſonment, breaking and entering her Houſe, ſeizing her Effects, and other perſonal Injuries, as expreſſed in the Declaration; for which ſhe laid her Damages at 600,000 Sicca Rupees, or about £. 66,000.

Behadar Beg pleaded, That he was not within the Juriſdiction of the Court; and he added to this, a Plea of Not Guilty.

The other Three Defendants pleaded generally, Not Guilty.

The Pleas of Not Guilty, were accompanied, according to the Rules of the Court, with Notices of Juſtification; in which Behadar Beg ſtated, That in the Matters complained of, he acted only as a Suitor; and the other Defendants ſtated, That they acted as Miniſters of a Court of Juſtice. Patna Appendix, N° 12 and 13.

Behadar Beg's Plea to the Juriſdiction, firſt came on; and was over-ruled.—He was held to be ſubject to the Juriſdiction of the Court, as "employed by the Company," in the Character of Farmer of the Diſtricts of Gidore and Amertoo; for, although he appeared to be nominally only the Security for Julficar Ally, the nominal Farmer of theſe Diſtricts, yet One of the Witneſſes having expreſſed a Suſpicion, that Behadar Beg was himſelf the real Farmer, under the Title of Security, and it being ſaid by another Witneſs, that he was generally reputed to be ſo, the Court was of Opinion, that he ought to be conſidered as the principal Farmer. Patna Appendix, N° 8, 9, and 10.—The Court alſo took Notice, that Mr. Young, had ſaid in his Evidence, that the Security for a Farmer might employ the Power of Government in Aid of the Collection; and upon theſe Grounds, adjudged him to be within their Juriſdiction. And Your Committee have annexed the ſeveral Opinions of the Judges upon this Caſe, in the Patna Appendix, N° 11.

This Adjudication being the firſt Inſtance in which Farmers of the Revenue were held to be ſubject to the Juriſdiction of the Court, appears to have given great Alarm in the Province of Bahar; the Renters or Farmers of which, preſented a Petition to the Council at Patna, deſiring it might be forwarded to the Governor General and Council; repreſenting, in very forcible Terms, the Apprehenſions excited by the Judgment alluded to; calling for the Protection of Government againſt it; and, if that could not be afforded, deſiring to relinquiſh their Farms, that they might retire to ſome other Country. Patna Appendix, N° 14.

The Notices of Juſtification came next under Conſideration—The Ground on which the Defendants, the Cauzee and Muftees, relied, was, that the Provincial Council at Patna had Authority, derived from the Governor General and Council, to ſit and act as a Court of Juſtice, and to hear and determine Suits between Muſſulman and Muſſulman, ſubject to an Appeal to the Governor General and Council at Fort William, and to enforce their Decrees;—that when the Parties were Mahomedans, the Suits uſed to be determined according to the Mahomedan Law, and the ſame were uſed to be referred to the Cauzee and Muftees; who, when ſuch Reference was made, were uſed to examine the Action or Suit, and having heard the Parties, their Vakeels, or Attornies, and the Evidence on both Sides, were uſed to deliver in a Report upon the Suit referred, agreeably to the Mahomedan Law, whereupon the Council gave Judgment. Patna Appendix, N° 15, 16.

With reſpect to the Three Defendants, the Cauzee and Muftees, the Court ſet aſide their Juſtification, as inſufficient on the Face of it; becauſe it ſtated, That the Council at Patna, having only a delegated Authority themſelves, had delegated that Authority to others, contrary to an eſtabliſhed Maxim of the Law of England, Delegatus non poteſt delegare.

The Juſtification of Behadar Beg, to the Terms of which this Objection did not apply, was ſet aſide on the Ground that it did not cover all the Counts in the Declaration.

The ſeveral Defendants being thus precluded from offering any Evidence in Juſtification, were however allowed to adduce it in Mitigation of Damages.

In this Form, the Court went minutely through the Whole of the Caſe; in the Courſe of which, the Merits of the original Claims to the Succeſſion of Shabaz Beg Cawn, made before the Chief and Council at Patna, came to have a principal Share in their Conſideration—The Proceedings laſted many Days, and have ſwelled to a very conſiderable Size; and as the Committee does not think that a Detail of theſe Proceedings, which belong only to the particular Merits of this Caſe, is neceſſary for the Information of the Houſe, on any general Point material for their Conſideration, they refer for Satisfaction on that Head, to the Patna Appendix, N° 17, 18, and will content themſelves with ſtating here, what ſeems to them to be the general Effect of the Judgments.—Your Committee think it proper, for this Purpoſe, to take Notice, that the Defendants in this Cauſe, are not accuſed of Peculation, or any other Species of Corruption, in any of the Matters objected to them; for, although this is alledged in the original Affidavit of Nadarah Begum, which was the Foundation of the Suit, it was never attempted to be proved in any ſubſequent Stage of the Cauſe;—but the Charges againſt them, are confined to their having acted without a ſufficient legal Authority; to Irregularity in their Proceedings; to their having pronounced an erroneous Judgment; and having been guilty of unneceſſary Violence in the Execution of their Orders.

Your Committee think it proper to lay before the Houſe, in this Place, the Evidence given on the Trial before the Supreme Court, reſpecting the Reference of Suits between Muſſulman and Muſſulman, to the Cauzee and Muftees.

William Young, Witneſs for the Defendants, being duly ſworn, depoſed,

I am a Member of the Provincial Council at Patna—They ſit as a Court of Civil Juſtice—They try Cauſes between Muſſulman and Muſſulman.—In the Province of Bahar, the Provincial Council of Patna ſit as this Court of Juſtice, and tries Matters of Property, and Cauſes of Inheritance, between Muſſulman and Muſſulman—In the Month of January 1777, they did ſo—I was at that Time a Member of the Council there—I know the Defendant, Behadar Beg—In paſſing a Deciſion, they iſſue Proceſs on Complaint being made—We iſſued Proceſs, called Perwannahs, and Orders—having heard and tried a Cauſe, we proceed to give Judgment upon it—There are Muſſulmen Officers, a Cauzee and Muftees, attendant on the Court, for the Determination of all Points which depend and refer to the Mahomedan Law—Such Points are referred to them—In ſome Caſes, Enquiries as to Matters of Facts, are referred to them—The Right of Purchaſe, in ſome Inſtances.—It is the Cuſtom among Muſſulmen, that when Lands or Houſes are to be ſold, the next Neighbour is to have the Preference, and the Cauzee and Muftees are to enquire who is the next Neighbour, and this is called the Huc Shuffee.—If the next Neighbour has had the Preference of the Purchaſe, and the prior Refuſal to purchaſe, it is the Duty of the Cauzee and Muftees to enquire, whether he is really the next Neighbour, and to make their Report to the Court and their Report is deemed valid by the Court; and the Perſon who diſpoſed of the Houſe or Land, is to return the Money to the firſt Purchaſer, and ſell the Houſe or Ground to the Perſon claiming and proved to be the next Neighbour.—In Matters of Inheritance, it has been the uſual Practice of that Provincial Court, to refer Matter of Fact and Law to the Cauzee and Muftees.—It is common to refer the whole Cauſe to the Inveſtigation and Report of the Cauzee and Muftees—I found that to be the uſual Practice on taking my Seat at the Board—Our judicial Proceedings have been regularly tranſmitted to the Governor General and Council, where ſuch Cauſes have been referred in the above Manner, and determined finally by us; which Proceedings having never been objected to by the Governor and Council, have been deemed by me and the other Members as valid, and conſidered now as a Part of the Conſtitution of our Courts; but the Report of the Cauzees and Muftees, are not always the Rule of our final Determination, if any Objections are urged by the oppoſite Party, which are thought by us to deſerve Conſideration.—It is the conſtant and invariable Rule of our Court, either for the Parties themſelves, or the Muttulluck Vakeels (their Agents with full Powers) to be preſent on our hearing and determining on the Report of the Cauzees and Muftees—The Parties or their Muttulluck Vakeels, have certainly a Right to object to the Matters of Fact and Law, as ſtated by the Cauzee and Muftees, and ſometimes do object—I do not recollect an Inſtance where the Report of the Cauzee and Muftees was objected to, but I have no Doubt it has frequently happened—I think we have the Right, and I would do it—I recollect One Inſtance where, upon an Objection being made to the Report of the Cauzee and Muftees, in a Cauſe between Muſſulman and Muſſulman, the Court proceeded to make further Enquiry into it themſelves—I believe, if I had Time to recollect myſelf, I ſhould be able to mention more Inſtances.

A Complaint was made in Writing to the Provincial Council by the Defendant, Behadar Beg—We receive no Complaints but in Writing.—The Original, as I ſaid in a former Depoſition, was, as I believe, tranſmitted to the Commiſſioner of Law Suits here.

In Caſes where Judgment is given, it becomes neceſſary to ſequeſter the Effects; they are uſually taken Account of, in the Preſence of the Cauzee, or ſome of his Officers—Tis alſo the Duty of a Cauzee, on the Inſtitution of a Suit in the Provincial Court, particularly in Suits reſpecting Inheritance, to proceed to the Spot where the Property is, if it is Perſonal Property, and capable of being removed, to take an Inventory of it; but it is alſo cuſtomary, that the Parties themſelves, or Perſons on their Behalf, properly authorized, be preſent, when ſuch Inventory is taken—I have aſſiſted in paſſing Orders for that Purpoſe, and the Cauzee cannot proceed until he has received Authority from the Court.—Upon the Inventory's being taken, the Effects are ſealed up, or the Place where the Effects are, by the Cauzee, and thus they remain till Judgment is paſſed, and it is determined to whom they belong—On Judgment being paſſed, an Order is iſſued to the Cauzee, to allot them conformably to the Terms of the Judgment.—It is his Duty to obſerve this Order, and which if he neglected, Complaints would ariſe, and due Notice taken of it; he would be called upon to account for his Conduct, and if it appeared reprehenſible, he would be ſuſpended from his Office, and a Complaint would be made to the Governor General and Council, and it would be requeſted of them to deſire the Sudder Cauzee of the Three Provinces, to appoint another; becauſe all the Cauzees in the different Parts of the Country, are Naibs of the Sudder Cauzee of the Three Provinces.—I do not know the Name of the preſent Sudder (or Chief) Cauzee of the Three Provinces.—I certainly do conſider the Cauzee and Muftees, miniſterial Officers, in ſome Part of their Duty.—The Defendants, Cauzee Sadhee, Muftee Gullaum Mucdoom, and Muftee Baractoolah, were at this Time Cauzee and Muftees of the Court, but there were other Muftees alſo of the Court, one named Ali Ibrahim, who is more generally known by the Name of Muftee Geeum, and the other named Muftee Kurrum Ullah.—The Dewannee Adaulut, is ſuperintended by One of the Members in monthly Rotation.—Its Deciſions admit of an Appeal to the Provincial Council, in their judicial Capacity, as a ſuperior Court; both of them are regulated by the ſame Modes and Practice.—The Council are not only a Court of Appeal, but alſo a Court in the firſt Inſtance, I mean a Court of original Juriſdiction; and any Member of the Council can introduce a Cauſe before the Council, by receiving the Petition of the Party, and laying it before them—It is alſo expreſsly ordered by the Governor General and Council—Thoſe Orders are in our Book of Regulations.—The Caſes inſtituted before the Provincial Council, admit of Appeals to the Governor General and Council.—There are no Courts eſtabliſhed by the Governor General and Council, for hearing Appeals from our Deciſions, but the Sudder Dewannee Adaulut.

Edward Golding, Witneſs for the Defendants, being duly ſworn, depoſed:—I have been a Member of the Provincial Council at Patna from November 1774 to October 1778—not before the Eſtabliſhment of the Governor General and Council—My Appointment is in Writing—I have it not with me—It is among my Papers.—In many Caſes of Cauſes of Inheritance and Cauſes of Property, tried by the Council at Patna, it is in many Caſes uſual, no Doubt, to refer to the Cauzee and Muftees the Cauſes before them; but it is not in general in all Caſes; it is not univerſally the Practice.

Your Committee think it not improper to lay before the Houſe alſo, in this Place, the following Extracts from Mr. Bogle's Report, which ſeem to throw Light on the Subject:

“ That to give the Muſſulmans of this Country the full Advantage of being tried by their Laws, it is neceſſary that the Fact as well as the Law, be referred to their own Doctors, inaſmuch as it requires a Knowledge of the Law to try the Fact, and to diſcover the Points that are material to the Cauſe, and upon which the Law turns: That one would naturally be of Opinion, that the Cauzee and Muftees are better qualified to examine a Muſſulman Cauſe than Engliſhmen; and that their Examination would be more grateful to their Countrymen; and that there appears no juſt Grounds for a contrary Opinion: That the Number of Engliſhmen acquainted with the Language of this Country, is very ſmall, and even of theſe, few are ſo far Maſters of it, as to be able to write it and read it without Difficulty; and if no Fact was to be examined but by them, or in their Preſence, and no Cauſe determined till all the Papers, Accounts, and Evidence had been tranſlated, the Adminiſtration of Juſtice would be almoſt entirely ſtopped.”

“ The Law Maxim of Delegatus non poteſt delegare, preſented an Objection which was unanimouſly deemed fatal; and the Acts of the Cauzee and Muftees being done by virtue of an Authority delegated to them by the Council at Patna, were conſequently adjudged to be illegal.”

“ But however unjuſtifiable their Conduct may appear, when tried by the ſtrict Principles of Law, Humanity will plead in their Behalf, that they were totally unacquainted with this, and every other Maxim of the Engliſh Law: That they were ignorant of the Conſtitution of the Chief and Council of Patna, and of the particular Rights with which it inveſted them; but conſidering it as their Duty to execute the Orders of the Hakim or reigning Power, and knowing that the Engliſh poſſeſſed the ſovereign Power in this Country, and that the Council at Patna had the ſupreme Authority in the Kingdom of Bahar, they thought themſelves bound to obey their Orders, and examine the Cauſe of Nadarah Begum in the ſame Manner as they would have obeyed the Order of the Governor General and Council, or Supreme Court, without queſtioning their Authority, or examining how far Conqueſt and ſuperior Force conferred the Right of exerciſing it; that they had often, as on this Occaſion, examined Cauſes, and enquired into Complaints, in conſequence of ſimilar Perwannahs of the Council or Provincial Court of Adaulut, without the moſt diſtant Idea, that what they looked upon as a Point of Duty, would be imputed to them as a Crime, and expoſe them to perpetual Impriſonment.”

Your Committee think it proper to refer to a Letter from the Governor General and Council to Mr. Ewan Law, dated 12th January 1778; in which the Governor General expreſſes his Opinion, That the Patna Council were not regular in referring the Examination of the Witneſſes and the Trial of the Facts in the Cauſe, to the Cauzees and Muftees. Patna Appendix, N° 7.

Your Committee alſo examined ſeveral Gentlemen competent to give them Information on this Point, which they will lay before the Houſe in this Place.

Mr. Golding informed Your Committee, That he reſided Fifteen Years in Bengal; that he reſided Twelve Years at Patna and its Subordinates, and for the laſt Four Years of that Time was a Member of the Provincial Council there. Being aſked, What was the Courſe of the Provincial Council at Patna, where a Cauſe of Importance is brought before them? he anſwered, That it was uſual to ſummon the Parties or their Agents to appear. And being aſked, What Reaſon appeared on the Face of the Proceedings in the Cauſe of Behadar Beg againſt Nadarah Begum, why the Parties or their Attornies were not ſummoned to appear when the Suit was commenced? He ſaid, That he believed the Caſe in Queſtion was conſidered more as a Matter of Law than Matter of Fact, and was therefore referred to the Expounders of the Mahomedan Law—That he did not recollect whether this Reaſon was ſo expreſſed on Record, but that he conceived it to be the Motive that weighed with the Council, for referring it to the Opinion of the Cauzee and Muftees.—He informed Your Committee, That this Method of referring a Petition, has been practiſed in other Inſtances ſimilar to the preſent, that is, in Caſes of Inheritance which require the Opinion of the Mahomedan Lawyers—That the Council do certainly not undertake to decide any Point of Mahomedan Law without ſuch a Reference; and he believes, that they are generally guided by the Report of the Mahomedan Lawyers; but if their Opinion ſhould be wrong, an Appeal lies to the Governor General and Council, when the Opinion of other Mahomedan Lawyers would be taken—That the Inſtitution of Cauzees and Muftees, for Trial of Cauſes, was previous to the Eſtabliſhment of the Provincial Courts, and he believes from the Time of the Mahomedan Conqueſt—That he believes there is a Supreme Cauzee, who reſides at Muxadabad, or Calcutta, and who delegates Authority to thoſe who act in the Provinces—That he does not know whether the Supreme Cauzee has his Appointment directly from the Governor General and Council, or from the Naib Subah at their Recommendation—That he exerciſes his Authority in the Name of the King Shah Allum, whoſe Name is engraved on the Seal of Office, with the Date of the Appointment.—And being aſked, What would have been the Conſequence, if the Cauzee had refuſed to obey the Order of Reference made by the Provincial Council? he ſaid, That it muſt, in his Opinion, have been conſidered as a Neglect of Duty, and as ſuch have been reported to the Governor General and Council. And being aſked, Whether it had ever been notified to the Cauzee and Muftees, that accepting ſuch a Reference, and reporting thereon, would be conſidered by the Supreme Court of Judicature as illegal, and ſubjecting them to Puniſhment? he ſaid, That he was not there at the Time, but as it never entered into the Imagination of any Man, that it would be ſo conſidered, of Courſe he conceived it could not be notified to them.—He further informed Your Committee, That it is uſual to employ the Cauzee's Authority in taking Inventories of Goods, and ſecuring them under his Seal during the Litigation of Property, and that he is employed in enforcing Proceſs and Judgment.

Mr. Law was then examined; and informed Your Committee, That he had reſided Fifteen Years in Bengal, and Thirteen at Patna—That he went there as Interpreter and Perſian Tranſlator in 1767; that in 1772 he was appointed a Member of the Provincial Council of Revenue, and was appointed Chief in 1777; that when the Cauſe of Behadar Beg againſt Nadarah Begum was before the Council, Mr. Droz was acting Chief, and he was Second himſelf—That a Suit had been brought in the Supreme Court againſt him and Two other Members of the Patna Council, by Nadarah Begum, which, on their Repreſentation, had been defended by Order of the Governor General and Council; and as nothing was endeavoured to be proved at the Trial, but thoſe public Acts which appear on the Patna Conſultations, the Decree of 15,000 Rupees had been ordered to be ſatisfied by the Governor General and Council on the Part of the Company; and the Cauſe, he underſtands, is now appealed—That the Decree of the Supreme Court paſſed ſince he left Bengal; and that he underſtands, by Letters from his Agents, that the Expences of the Appeal are defrayed by the Company, and that it is upon thoſe Terms only that he has authorized them to go on with the Suit—That if the Damages are finally determined in Favour of the Begum, the Loſs will fall on the Company—And he refers to a Letter of the other Two Members of the Patna Council to the Governor General and Council, demanding to be indemnified in the Sum decreed againſt them, and their Anſwer and Proceedings thereupon.

He then informed Your Committee, That Suits between Native and Native were generally brought before the Council at Patna, by Arzee or Petition—That the Parties complained of, or their Agents, were then ſummoned, and in ſome Caſes the Matter is in general referred to the Cauzee and Muftees, who enquire into and report upon them—That the Reference he believes is ſometimes made previous to the ſummoning the Parties; and that in the Caſe of Behadar Beg againſt Nadarah Begum, it was conceived there might be more Claimants than theſe Two.—The Mahomedan Law Officers were directed to receive all Claims, to examine them, and to ſtate the Proportions to which, according to the Degree of Affinity, they might be entitled; and as this Enquiry might be affected by the Production of Deeds, thoſe of Courſe came under their Conſideration—They were directed alſo to ſecure the Property to prevent the Embezzlement, until a Decree and a Diviſion could take Place—That Deeds or Inſtruments, affecting Property in that Country, differ materially both in Form and Effect from thoſe in England; and that he certainly would not have ventured to determine any Cauſe which might have been affected by ſuch Deeds, without taking the Advice of the Mahomedan Law Officers—That he does not think himſelf as competent a Judge of any internal Evidence, which may lead to the invalidating ſuch Deeds, or ſhewing them to be falſified or forged, as the Lawyers of that Country, who were trained in the drawing and legal Conſtructions of thoſe Inſtruments—That the Regulations of 1772, eſtabliſhed by the Governor General and Council, expreſsly direct the Provincial Courts of Dewannee Adaulut, to make Reference to the Cauzee and Muftees, on Points of Law occurring in Suits between Mahomedans—That he always underſtood it was the Practice under the Mahomedan Government—That in Points of Mahomedan Law, he conſidered it as his indiſpenſable Duty, to conſult the Officers and Men learned in that Law.—And being aſked, Whether the Mahomedan Magiſtrates and Doctors do not conſider themſelves as indiſpenſably obliged to obey the Order of Reference? he anſwered, That they did, becauſe they could have no Idea of any Power over them, beſides that of the Provincial Council of the Diſtrict in which they lived, and that ſubordinate to the Governor General and Council—he means in reſpect of legal Orders and References.—And being aſked, Whether, it had ever been notified to them, that ſuch Delegation of Authority was in itſelf unlawful, and their acting under it in ſuch a Manner as to affect the Property or Perſon of any one, was an Offence, and puniſhable? he anſwered, No; I am clear that the Law Officers at Patna received no ſuch Information through the Provincial Council, nor do I think they could have learned it through any other Channel — It was neither conceived by the Council nor the Mahomedan Law Officers at Patna, that the latter were in any Senſe ſubject to the Juriſdiction of the Supreme Court, before they found themſelves arreſted by a Warrant from that Court.—He alſo ſaid, That it is uſual for the Council to authorize the Cauzee to execute the Proceſs of the Dewannee Adaulut, by ſecuring the Eſtate until the Title is determined, and to enforce the Judgment, and that he underſtands this to be Part of the Duty of the Cauzee.—He alſo informed the Committee, That he knows of no Qualification neceſſary for the Office of Cauzee, but his Appointment —That the Chief Cauzee of the Three Provinces lives at Muxadabad, and, he believes, holds his Appointment from the Nabob — The Cauzee for the Province of Bahar acted by a Sunnud from the Chief Cauzee at Muxadabad, which he has ſeen, and he knows of no other Authority by which he acted — That there is a Cauzee eſtabliſhed in every different Pergunnah of the Bahar Province, who holds his Office by Sunnud from the Sudder or Head Cauzee at Patna—That thoſe Muftees are entitled to the Name of Muftees, who poſſeſs Sunnuds from the Sudder Adaulut, or Chancery of the Empire, or from the Deputies of the Perſon holding the Sudder Adaulut, One of whom reſides in every Province—That there are ſeveral Muftees in Patna beſides thoſe retained by the Company, who procure a Livelihood by drawing Deeds, or other Practice.

Your Committee find alſo Information on theſe Subjects in the 7th Report of the Committee of Secrecy, preſented to the Houſe on the 6th Day of May 1773, to which they refer.

Your Committee having laid before the Houſe ſome Information on what they have deemed the principal and leading Conſideration in this Cauſe, come now to the Judgment, which they find was given on the 3d of February 1779, for the Plaintiff againſt all the Defendants, with 300,000 Rupees Damages, and 9208 Rupees 10 Annas, Coſts, making together Sicca Rupees 309,208. 10 Annas, or about Thirty-four thouſand Pounds, and that Execution was ſued out accordingly.

Your Committee have reſerved to this Place, an Account of the Proceſs iſſued in this Cauſe, both that the Relation of other Matters might not be interrupted, and that the Effect of the Suit, with all its Conſequences, on the Defendants, might be the better underſtood by being ſtated together.—And Your Committee find, That the Firſt Proceſs was a Capias, with a Bailable Clauſe, againſt all the Defendants; and that a Bailiff from Calcutta arrreſted Behadar Beg and the Cauzee, as he was returning from the Dewannee Cutchery, one of the Provincial Courts of Juſtice at Patna, on Saturday the 13th of December 1777; and that the Bail required was 400,000 Rupees, or about Forty-four thouſand Pounds.

Your Committee find, That on Monday the 15th of December, Two Days after the Arreſt, the Chief and Council at Patna agreed to offer Bail for Mahomed Sadhee, Sudder or Chief Cauzee of the Province of Bahar. The Reaſons aſſigned by the Board for offering Bail for the Cauzee and Muftees, appears from the following Extract from their Letter to the Governor General and Council, on the Subject.

“ The Seizure of the Cauzee in this diſgraceful Manner, coming from the Execution of his Of-
“ fice, has ſtruck a general Terror into the Inhabitants of this City. We thought it therefore ex-
“ pedient, for the Honour of the Government, and Preſervation of its Authority, to offer the Bail
“ required for the Enlargement of one of its firſt Officers; and we were greatly diſappointed when
“ we found it could not be effected without further Orders from the Court.”

“ Much more might be ſaid, to ſhew what little Reſpect can be expected to be paid in future
“ to the Decrees of the Dewannee Courts, the total Inconſiſtency of this double Government, and the
“ cruelty and Hardſhips which Individuals are expoſed to by it, did we not know that theſe Circum-
“ ſtances are too apparent to need further Arguments from us, and that the Inconveniences attending
“ ſuch an incongruous Syſtem, muſt appear in their proper light to you. So far we have taken the
“ Liberty to act, and we flatter ourſelves our Conduct will meet with your Approbation.”

“ The Buſineſs of the Phouſdarry muſt be totally, and of the Dewannee Courts, in a great Mea-
“ ſure, ſuſpended, till Meaſures are taken for the Releaſement of the Cauzee; nor can we expect the
“ other Officers of theſe Courts to carry any Orders of Conſequence into Execution, till they are
“ aſſured of Safety and Protection in the Diſcharge of their Duty.”

Your Committee find, That on this Offer being made by the Council, the Bailiff acquainted them, “ That all the Perſons whoſe Names are recited in the Warrant, are included in the Bail,
“ and that no ſeparate Bail can be taken for any one in particular; and further, that though he
“ has brought with him a Bail Bond, yet he cannot, agreeable to his Inſtructions, accept of any Bail
“ without firſt mentioning it, and receiving further Orders from Calcutta.”

The Bailiff also informed the Council, "That his Orders in this Caſe were particularly ſtrict; and that the Parties could not, as was uſual for Perſons arreſted, be allowed to remain in their own Houſes till the Time came for conveying them away, but muſt remain in Boats on the River, till he has further Directions in what Manner to diſpoſe of them."

Your Committee find, That in conſequence of this Arreſt, ſeveral Petitions were immediately preſented to the Council at Patna, as appears from the following Extract from their Proceedings of the 13th December, 1777.

"Received the following Arzee from Gullaum Mucdoom, Kurrum Ullah, Berkut Ullah, and Syed Mahomed Jewan, Muftees."

"You have, no doubt, heard of the Warrant for Behader Khan, and that the Bailiffs alſo have carried the Cauzee on board a Boat, and conveyed him away.—Now, as there is a Report prevails, that a Warrant is come up for the Muftees alſo, we being the Servants of the Government, and relying upon your Support alone, and ignorant of any Motive or Reaſon for ſuch a Meaſure, requeſt your Orders how to act."

"Agreed that a Perwannah be wrote to the Muftees, that, ſhould they be ſeized upon by this Warrant, they may rely upon receiving due Support from the Governor General and Council."

"Received an Arzee from Abdu Riſkeed Khan, Deroga of the Phouſdarry Cutcherry."

"Yeſterday, being the 12th of Zykaud, one Mr. Savorey, an European, arrived at Patna with a Warrant, and arreſted the Cauzee as he was returning Home from Court, after the Dewannee Adaulet was broke up, and obliged him to deſcend from his Conveyance and attend him, and took him from the Spot on which he was arreſted to a Boat, upon which he is to be conveyed to Calcutta."

"As the Cauzee and other Law Officers, upon whom Warrants are iſſued, do not belong to the Company, nor are Servants to the Company, but are of the Phouſdarry Adaulet, which is under the Nizamut, and this Court muſt be at a Stop without them, and there never was an Inſtance of the Law Officers being ſo uſed before, I think it requiſite to inform you of this Proceeding. Nuzzer Bauky Beg, the Sudder Fougedar, and Abdul Ruſſeed Khan, the Deroga attending the Board, repreſent the Diſgrace that falls on their Office from the Impriſonment of the Cauzee."

"They are informed, That it is not in our Power to give them any Redreſs, but that we ſhall lay the Circumſtances at large before the Honourable the Governor General and Council."

Your Committee find, That on the 29th of December, Sixteen Days after the Arreſt, during which Time Behadar Beg and the Cauzee had been confined in Boats on the River, the Bailiff having received his Inſtructions from Calcutta, Bail was given to the Sheriff by the Chief and Council at Patna, in Behalf of the Company, for all the Defendants; and the Two Priſoners were ſet at Liberty.

Your Committee find, That the Governor General and Council, on being informed of theſe Tranſactions at Patna, reſolved firſt to undertake the Defence of the Suit on the Part of the Company, and alſo to put in Bail above for all the Defendants.

The general Motive which induced the Board to offer Bail for the Cauzee and Muftees, may appear from the following Extract from their Proceedings, of the 13th of January, 1778.

"Reſolved, That as the Defendants are proſecuted for a regular and legal Act of Government, in the Execution of a judicial Decree (except one of them, Behadar Beg, the Plaintiff in the Suit before the Dewannee Adaulut at Patna, whoſe Arreſt is not for any apparent Cauſe) they be ſupported and indemnified by Government from all Conſequences from which they can be legally indemnified."

It appears, that whatever Hardſhip was thought to attend the Caſe of Behadar Beg, whoſe Arreſt the Governor General and Council, adopting the Expreſſion of the Board at Patna, ſtate to have been "for no apparent Cauſe," yet being only a Suitor in the Provincial Court, he was not conſidered as having the ſame Claim to the immediate Protection of Government as the Officers of the Adaulut, whom they ſtate "to have been proſecuted for a regular and legal Act of Government, in the Execution of a judicial Decree." But the Reaſon for including Behadar Beg in the Bail, ſeems to have ariſen from the Nature of the Proceſs, and the Orders of the Supreme Court thereon, as well as from the previous Proceedings of the Patna Council, which left them no other Alternative than that of delivering either all or none of the Defendants from their Impriſonment.

It appears, that Behadar Beg, ſoon after he was bailed at Patna, was ſent to Calcutta, to ſurrender in Diſcharge of his Bail; but that Bail to the Action having been afterwards given for him by the Governor General and Council, he remained in Calcutta at large till the Month of July, when the Cauſe being expected to come on ſoon after, it was thought adviſeable to ſend him under a Guard of Sepoys to Patna, to remain there under the Cuſtody of the Chief and Council, but with every Indulgence conſiſtent with Security, to await the Judgment of the Court.

On Judgment being given, Your Committee find, That the Defendants were ſent down from Patna to Calcutta, under a Guard of Sepoys, to be ſurrendered.—And Your Committee are concerned, to inform the Houſe, that Cauzee Mahomed Sadhee expired on the Journey, and that the Survivors, Behadar Beg and the Two Muftees, were committed to the Common Gaol at Calcutta, where they had remained many Months, and ſtill continued at the Date of the laſt Diſpatches from that Preſidency, without any Proſpect or Hope of Relief but from Parliament.

Your Committee inquired concerning the Circumſtances and Characters of the Defendants; and with Regard to their Circumſtances find, that the Evidence given at the Trial on that Point, was as follows:

Cojah Zekeriah ſays, The Defendant Cauzee Sadhee, is a great Man, and Deputy to Shurrut Ullah Cawn, and is a rich Man—The Defendants, Muftees Baractoolah and Gullaum Mucdoom, are in proſperous Circumſtances.

Kurrumoolah ſays, The Cauzee Sadhee has 100 Rupees a Month—There are five Muftees, who have in all 120 Rupees a Month.

There was no Evidence as to the Subſtance of Behadar Beg; and it is to be obſerved, that the Share of Shabaz Beg's Eſtate which he received, was only in Truſt for his Father, who actually took Poſſeſſion of it.

And Your Committee examined ſeveral Gentlemen to this Point, who informed them, That the Defendants were in poor Circumſtances, and that a Commitment till they ſhould pay the Damages adjudged by the Court, would amount to an Impriſonment for Life. And Your Committee alſo find, That the Cauzee was above Sixty Years of Age, that he had been Chief Cauzee of the Province of Bahar a great many Years, and long before the Eſtabliſhment of Provincial Councils; that he was much reſpected, and that the Muftees bore the Characters of learned and upright Men.

Your Committee find, That ſoon after the Commitment of the Defendants, Petitions were preſented to the Governor General and Council, ſtating their Situation, and praying for Relief—And that the Governor General and Council did accordingly afford ſuch Relief to them, and their Families, as their Situations admitted of.—Patna Appendix, N° 19, 20, 21. And Your Committee obſerve, that in the Courſe of theſe Communications, Hopes of final and more ſubſtantial Relief were held out to the Defendants, from the Interpoſition of Parliament, which was repreſented to them as their only Reſource. Patna Appendix, N° 22.

And Your Committee find, That Nadarah Begum brought another Action, on account of the ſame Tranſactions, againſt Mr. Law and Two other Members of the Provincial Council at Patna—That the Governor General and Council finding the Suit was brought againſt theſe Gentlemen for Acts done in their public Characters, thought proper to take its Defence on themſelves, on Behalf of the Company.—And Your Committee find, That the Plaintiff recovered alſo in this Action 15,000 Rupees Damages; which the Governor General and Council, from the ſame Conſideration, ordered to be ſatisfied on the Part of the Company.—And Your Committee find, That an Appeal was brought againſt this Judgment to the King in Council, which they are informed is now depending.—And Your Committee have not found any full or ſatisfactory Account of the Proceedings in the Phouſdarry Court, ordered by the Patna Council, againſt Cojah Zekeriah, Ghyrut Beg, Ennuyet Alla Beg, Cauzee Muzzoom, and Mahomed Evaz, for the Forgery of the Two Inſtruments relied on by Nadarah Begum.—Your Committee find, That they were confined Seven Months in conſequence of theſe Proceedings; but are not enabled, by any Evidence before them, to ſtate the final Iſſue of the Proſecution, or whether any Judgment was ever paſſed upon it.—And Your Committee find, That ſometime after Judgment had been given againſt Behadar Beg and the Cauzee and Muftees, Mr. Young and Mr. Law, Two Members of the Patna Council, preferred an Indictment in the Supreme Court againſt Nadarah Begum, Cojah Zekeriah, and other Perſons, whom they ſuppoſed to be her Agents, for the Forgery of the Two Deeds before-mentioned—That this Indictment was quaſhed by the Court for Informality, and that the Proſecution was then dropped.

Your Committee think proper to ſubjoin, in this Place, ſuch Part of the Evidence delivered to them by the different Witneſſes whom they have examined, as relates more particularly to the Patna Cauſe.

Mr. Golding informed the Committee, That he knew Shabaz Beg Cawn and Behadar Beg perſonally.—That the Nephew lived in the Houſe with his Uncle, uſually accompanied him in his Viſits to the Engliſh Gentlemen, and was conſidered by them and the People, as the Perſon whom he intended to make his Heir—That no Quarrel between the Uncle and the Nephew ever came to his Knowledge, and did not recollect to have heard of any—That he never heard of any Quarrel between Shabaz Beg and Allum Beg, at Cabool, during the Life of the former; but that ſince his Death ſuch a Report was ſpread, which he conceived to come from the Partizans of the Widow.

That he believes it is not uſual for Muſſulmans to take away the Portion allotted by Law from the next Male Heir; but on the contrary, believes that Muſſulmans in general give a Preference to the Male Relations—He never heard that Shabaz Beg had ſuch a particular Attachment to his Wife, as to ſuperſede that general Preference; but that he married at a very advanced Age, and he does not know what Influence his Wife may have had over him.

He never heard, in the Life-time of Shabaz Beg, that any Application had been made to the Mahomedan Lawyers, to draw up any Conveyance of his Eſtate in his Wife's Favour—He conceived him to have been in a State of Idiotiſm for ſome Time before his Death—It was near a Year before his Death that he ſaw him, and he then appeared to have loſt his Faculties.

That when any fair Conveyance is going to be made, that tends to alter the legal Succeſſion to Property, it is always uſual to employ Mahomedan Lawyers to draw the Deeds, and the Atteſtation of the Cauzee is indiſpenſably neceſſary to its Validity—That this Circumſtance renders the Tranſaction in ſome Degree public; that the Cauzee keeps a Regiſter of ſuch Tranſactions; that he never heard any Report of ſuch a Conveyance being drawn or authenticated, before the Death of Shabaz Beg; and that in his Situation, as it would have been a remarkable Tranſaction, he ſhould probably have heard of it, if it had happened.—He did not recollect ever to have heard of any other Inſtance of a Muſſulman leaving his Fortune by any Deed of Gift, executed during his Life-time, from his Male Heirs to his Wife.—Being aſked, Under what Authority, and in what Character, the Chief and Council at Patna act, in exerciſing Authority in Civil Suits between Natives? he ſaid, They act under the Authority of the Governor General and Council—They ſit as a Court of Appeal, in Relation to the Dewannee Adaulut at Patna, which is ſuperintended in Rotation by a Member of the Provincial Council—He underſtood likewiſe, that the Chief had the Power of removing any Cauſe from the Dewannee Adaulut, and laying it before the Provincial Council at large, or even of bringing a Cauſe before that Board in the firſt Inſtance—That he thinks this Exerciſe of Juriſdiction, both Original and Appellant, has been the invariable Courſe ſince the Eſtabliſhment of the Provincial Council, and the Regulations formed by Mr. Haſtings for the Conduct of the Courts of Adaulut—That when a Petition is preſented to the Chief and Council, he believes, as he ſaid before, that he can either bring it immediately before the Provincial Council in their judicial Capacity, or refer it to the preſiding Member of the Court of Adaulut—That in Cauſes of great Moment, and particularly ſuch as reſpect the Revenue, he uſually brings it immediately before the Provincial Council.

He alſo informed Your Committee, That the Mahomedan Lawyers are in general held in Reſpect by the People, and are Men of good Characters—That their Salaries are not large, and he cannot ſay how far they are open to Temptation—That they do not depend entirely on their Salaries; that they have certain Fees for ſetting their Seals to Inſtruments and Deeds, and have other Practice—That he does not recollect any Complaints of their Corruption.

He alſo ſaid, That he was acquainted with Meer Sadhee, late Cauzee of Bahar—That he was Cauzee when he firſt went to Patna, but he does not know how long he had been ſo before—That he bore the Character of a very honeſt and very humane Man, and he thinks was much eſteemed by the Inhabitants—That he never heard of any Complaints of Corruption being carried up to his Superiors againſt him; that he was not thought a Perſon ignorant in his Profeſſion; and that his long Continuance in his Office was a Proof of the contrary—That he is pretty certain the Cauzee did not derive his Authority originally from the Governor General and Council, or any Engliſh Authority in the Provinces of Bengal, Bahar, and Oriſſa—That he had no Concern in the Collection of the Revenues, and was in no other Civil Office under Government; and held no Employment but that of Cauzee, which he held in both Courts, Civil and Criminal—That he was not Servant or Agent of any European, and he believes would have thought himſelf diſgraced by it, whilſt acting in the Capacity of Cauzee.—He thinks he was near Sixty Years of Age—That he left a Wife, but does not know whether he had any Children.—He ſaid, That he had no Opportunity of knowing Meer Berkut Ullah, and Gullaum Mucdoom, except in their official Characters; that he knew nothing ill of them; the Cauzee was the Perſon to whoſe Opinion he paid moſt Attention.

He ſaid, That Cojah Zekeriah was conſidered as the Widow's Agent—He never knew Women appear in Perſon—The Agent acting under thoſe Circumſtances is conſidered as the Party herſelf, inſomuch that they ſuffer Impriſonment for their Principal.—He knew nothing of Cojah Zekeriah, until he appeared the oſtenſible Manager of Nadarah Begum; and he therefore can ſay nothing of his Character.

He knew of no Connection of Intimacy or Intereſt between the Cauzee Sadhee and Behadar Beg, which might create any Suſpicion of Partiality; and he believes there was no ſuch Connection between them.—On his Return to Patna, he heard no Imputation of Bribery againſt the Cauzee and Muftees in this Cauſe.—He believes the Inhabitants conſider Behadar Beg as the right Heir of Shabaz Beg.—He did not hear of any Cruelty committed in executing the Orders of the Patna Council on Nadarah Begum; but he heard that ſhe reſiſted the Decree; that ſhe withdrew herſelf to a Moſque adjoining to Patna, which is a Mauſoleum, and a religious Houſe.—He informed Your Committee, That this is a large Building, appropriated to the Burial of People of Diſtinction; and alſo contains ſeparate Buildings, where the Faquiers or Prieſts reſide—That it is in a very pleaſant Situation, admits of the beſt Accommodation, and has one of the moſt pleaſant Gardens adjacent to Patna.

Being aſked, What were the Circumſtances of the Cauzee and Muftees? he ſaid, That he ſhould imagine they were no better than would enable them to live decently; and that if they were in Priſon till they ſhould pay £. 36,000 Damages, it would be an Impriſonment for Life.—He ſaid, that Shabaz Beg was not an Omrah of the Empire, nor conſidered as a Man of high Diſtinction.—Being aſked, Of what ſtanding in the Company's Service thoſe Gentleman were, who uſually preſided in the Dewannee Adaulut? he ſaid, Seldom under Ten Years, often much more—That there were ſome few of them who did not underſtand the Country Languages, but that the major Part of them certainly did—That the Records of the Dewannee Adaulut were kept in the Perſian and Engliſh Languages—That there are many Gentlemen in the Company's Service who underſtand the Perſian Language—That in the Province of Bahar, the Depoſitions of the Witneſſes are generally given in Mooriſh, and taken down in Perſian and Engliſh; and that, as far as came within his Obſervation, a Majority of the Engliſh Gentlemen who preſided in theſe Courts, were ſufficiently acquainted with the Moor Language, to underſtand the Depoſitions made before them—That there was always an Interpreter attending the ſuperintending Member—That the Members of the Provincial Councils had no Salary for ſuperintending the Dewannee Court, but that he conſidered it as Part of the Duty annexed to their Station, for which he received a Salary from 500 to 700 Rupees a Month, according to his Seniority in Council—That they were not allowed the Benefit of Trade, ſince the laſt Act of Parliament—That the Allowance was barely equal to the Expences of the Station.—Being aſked, Whether Behadar Beg was conſidered as a Farmer or Renter of Land? he ſaid, That Shabaz Beg, in his Life-time, had a Farm adjoining to his own Ultumghaw, in the Name of another Perſon, for whoſe regular Payment of Rent he was Security—That after his Death he believes it was continued on the ſame footing to his Nephew, who was alſo Security for the Payment of the Rent, on the Part of the Perſon whoſe Name ſtood in the Pottah or Leaſe; but was himſelf under no Engagement as a Farmer, that he knew of.

And being aſked, If he knew what Effect the Adjudication, which made Farmers of the Revenue and their Securities amenable to the Juriſdiction of the Supreme Court, had upon Zemindars and monied Men in the Province of Bahar? he ſaid, That the Court had not declared that Juriſdiction while he was in India.

Mr. Law was then examined; and being aſked, Whether there were not ſome Circumſtances of unuſual Rigor, in executing the Orders of the Council againſt Nadarah Begum? he ſaid, None, in thoſe Acts done by the Cauzee and Muftees; the Story of her being driven from Place to Place, and at laſt forced to take Refuge in the Durgah, is what he never heard of, till he ſaw it in the Affidavit drawn out at Calcutta—That ſhe went to the Durgah, is notorious, as well as that there were a Variety of Houſes in Patna to which ſhe might have retired, had ſhe been ſo diſpoſed.—She was certainly afterwards treated with Rigor by the Council, in Conſequence of her Contumacy; and the Methods taken to enforce the Decree of the Council, were ſuch as were pointed out by the Advice of the Mahomedan Lawyers, expreſsly taken on the Occaſion.—Being aſked, What Acts of Contumacy he alluded to, and what was the rigorous Proceſs recommended by the Mahomedan Lawyers? he ſaid, That he ſpoke entirely from Recollection—That ſhe refuſed to deliver up the Sunnuds or Patents of the Ultumghaw, the Seal of her deceaſed Huſband, and to produce the female Slaves, who were neceſſary Witneſſes on a Charge of Embezzlement or Removal of the Effects—That the Opinion of the Mahomedan Lawyers was tranſlated, and ſtands on the Patna Proceedings—He believes Guards were recommended to be placed around her Habitation, to prevent all Communication with her, till ſhe complied with the Decree—That he conceived this Order extended to prevent the Conveyance of any Food to her; it was meant to reduce her to the abſolute Neceſſity of Obedience.—Being aſked, Whether he heard, before ſhe retired to the Durgah, that ſhe had been locked out of all the Apartments of her Huſband's Houſe, obliged to go into a Privy, and driven from thence, half naked, into a Bazar, or Market? he ſaid, Theſe are Circumſtances that he never heard of, or knew, till he ſaw them drawn out in Engliſh at Calcutta, where he believes them to have been fabricated, in order to heighten her ſuppoſed Diſtreſs. In regard to her being ſhut out of her Apartments, he conceived it ſcarce probable, from the Plan of Mahomedan Houſes—The Women's as well as the Men's Apartments uſually conſiſt of a Delaun or Hall, open to a Court, with Two ſmall Coutra, or dark Rooms, for keeping Goods; and it is in theſe Cloſets, and not in the open Hall, where Goods are depoſited; therefore, the ſhutting up of theſe Cloſets would have been a very little Inconvenience, whilſt the Hall, which could not be ſhut up, was free to her.—He does not remember any formal Complaints lodged before him, of any Acts of illegal Violence offered to this Lady.

He ſays, The Durgah, to which the Widow retired, is a very extenſive Incloſure, divided into a Number of Courts, with Walks, Trees, and Fountains, where People ſometimes reſort for Pleaſure; that it is inhabited by a religious Order of Men, called Faquiers; the Head of the Eſtabliſhment has a large Houſe. There are Apartments for Faquiers, and alſo for Travellers; and there is a large Eſtate allotted for its Support, which is, he underſtands, between 20 and 30,000 Rupees, or between 2 and £. 3,000, a Year.

He ſaid, That he was acquainted with Cauzee Sadhee—That he found him in that Office in the Year 1767, when he firſt went to Patna, and underſtood he had been there ſome Time—That he was univerſally reſpected; and during his Reſidence, he never heard any Impeachment of his Character. That no Complaints againſt him, for Corruption or Inſufficiency, had been laid before the Patna Council; and he never heard of any being laid before the Head Cauzee, the Naib Soubah, or the Governor General and Council; and he thinks it was not the Dread of his Power which prevented ſuch Complaints, but that the Probity of his Conduct gave no Room for them—He was a mild, moderate Man, and never interfered beyond the ſtrict Line of his Office, nor attempted to acquire Power or Influence—He was a Man very much beloved—He believes he had no Connection with Behadar Beg, and queſtions, whether he ever ſpoke with him before the Inſtitution of this Suit—That he never heard of any Quarrel between him and Nadarah Begum, and does not ſuppoſe there ever was one.

That the Muftees Baractoolah and Gullaum Mucdoom, were the Muftees retained by the Company, and he had occaſion frequently to ſee them acting in their judicial Capacity—That he never heard any ill of them—That he never heard any Surmiſe of Nadarah Begum's preferring any Complaint againſt the Cauzee and Muftees, on account of Corruption in her Cauſe, until ſhe charged them with it in the Affidavit on which the Suit commenced, and hopes were then expreſſed of their Ability to prove it, but it was not attempted on the Trial—He does not know, whether the Judges called for ſuch Proof.—Being aſked, Whether he attributed the Depopulation of Bahar to the Ignorance and Venality of the native Magiſtrates, and Men of the Law? he ſaid, By no Means; he ſuppoſes the Perſons who fill the Law Offices at preſent, are as learned and upright as they were Twenty Years ago, when the Province exceeded probably its preſent Population by One Third.

And being aſked, Whether he obſerved in the Provinces, a general Deſire of the Natives to be put under the Dominion of the Engliſh Law, and the Juriſdiction of the Supreme Court? he ſaid, That he believed there was nothing which they dreaded more, becauſe they did not underſtand the Principles upon which the Engliſh Courts acted, and as far as they had any Knowledge of the Engliſh Law, they found it totally repugnant to their Manners, Religion, and Cuſtoms. Being aſked, Whether they did not know, if they were made ſubject to the Engliſh Law, there was an extenſive Authority lodged in the Hands of Four Gentlemen of great Learning, to relieve them from Oppreſſions of the Engliſh and native Magiſtrates? he anſwered, That he does not believe they had any ſuch Knowledge, or if they had, that they wiſhed to make uſe of it—He believes they were better contented with their Country Courts, with all their Imperfections, than with the Proſpect of any Thing beneficial that they might find by reſorting to the Engliſh Court.—And being aſked, Whether the beneficial Effects of this Court might not be artfully kept from their Knowledge? he ſaid, He thinks it was totally impoſſible.—And being aſked, If they did not know that there were Engliſh Lawyers, Men of Ability, and able Attornies, who might aſſiſt them in taking the Benefit of the Engliſh Laws, and put them on a better Footing than when they pleaded their own Cauſes in their own Courts? he ſaid, He believed they liked better to plead their own Cauſes in their own Courts, near their own Homes, at no Expence, by themſelves or their Agents, in a Manner they comprehended, than to truſt their Cauſes to Perſons they did not know, to be carried through a Court, the Rules of which they were totally ignorant of, in a Foreign Language, at a vaſt Diſtance, and where, whether they gained or loſt their Suits, they were ſure of an heavy Expence—He does not mean to infer, that they thought lightly of the Engliſh Law, or its Profeſſors; but the Whole was not adapted to their Society, and was beyond their Comprehenſion.—He alſo ſaid, That he imagined the Right of Appeal to the King in Council could not be generally known; and that Delay and Diſtance would prevent them from taking much Benefit from it.—Being aſked, What were the Expences of the Suit between Behadar Beg and Nadarah Begum at Patna? he ſaid, That he does not know of any Expences beſides what might be paid to the Peons, that might be placed as a Guard over the Effects; the Court being ſupported by the Company, Parties are freed from other Charges.

He believes the firſt Notice the Cauzee and Muftees had of the Proceedings againſt them, was the Arreſt of the Cauzee and Behadar Beg; they were put on board Boats to be carried to Calcutta; they requeſted to be allowed to go to their Houſes, and to have Time for arranging their Affairs; the

Provincial Council offered Bail, but the Bailiff would not take it till he had written to Calcutta for Inſtructions, which took up 16 Days; during which Time the Priſoners remained on the River, with very indifferent Accommodation—That the Arreſt of the Cauzee occaſioned a general Alarm on the Minds of the People; which came to his Knowledge by the Apprehenſion expreſſed by all the Officers of Government, and a Number of other independent People reſiding at Patna—That the Number of Inhabitants at Patna does not exceed 50000.

He believes it was not uſual according to the Courſe of Proceedings in that Country, to arreſt the native Magiſtrates without previous Notice of a Complaint againſt them—That the Cauzee and Muftees had no ſpecific Notice of the diſtinct Matters on which they were to juſtify themſelves, nor could they form any Idea of the Nature of the Offence laid to their Charge, nor of what would be uſeful or proper for their Juſtification—That if the Council had not interpoſed to bail them, it would have been totally out of their Power to get Bail to that Amount at Patna; and they muſt have been carried to the public Priſon at Calcutta.

That afterwards, in order to their being delivered up by their Bail, they were ſent for by the Council, and acquainted with the Decree of the Supreme Court, and told, that they muſt be conducted to Calcutta, to be delivered up to the Court; and they were accordingly, within Two or Three Days after they were acquainted with the Order, put under a Military Guard, and conveyed in Boats to Calcutta; and ſome Time after, the Officers from the Sheriff came to Patna, and ſeized their Houſes and Effects, which were publicly put up to Sale—That beſides the Property belonging to the Perſons who were immediately Parties, Complaints were made to him (Mr. Law) of Villages and Houſes belonging to their Friends and Relations being alſo ſeized, and amongſt them Villages for which Rent was due to the Company—That ſuch Accidents are liable to happen, as the Sheriff is left to grope his Way in the dark.—The Effect of this Seizure, and putting up to Sale, of the Property of the Cauzee and Muftees, upon the Minds of the Inhabitants at Patna, was, to throw them into utter Aſtoniſhment; as they knew not wherein the Criminality of theſe Magiſtrates conſiſted, ſeveral of their Relations abſconded and ſecreted themſelves, leſt they ſhould alſo be conſidered as Delinquents.

In Conſequence of this Tranſaction, the Performance of the Duties of the Office of Cauzee was, for a Time, ſuſpended, till the Brother of the late Cauzee was appointed in his Station, and other Muftees were appointed in the room of thoſe who were gone.—It was with ſome Difficulty that the Cauzee's Brother would accept, being apprehenſive, that by being placed in the ſame Office as his Brother, he might be liable to the ſame Kind of Treatment by Proceſs from the Supreme Court.

Being aſked, What became of Cauzee Sadhee after he was delivered up by his Bail? he ſaid, He was in an ill State of Health when he left Patna, and that he died in his Paſſage to Calcutta—He never heard his Death attributed to his being taken down to Calcutta to Gaol; but as he was an infirm old Man, about Sixty Years of Age, and had been ill for ſome Time before, how far his Removal from his Family, and travelling upon the Water, might have an Effect in haſtening his Death, he could not pretend to ſay.

Being aſked, Whether he had ever heard of any Quarrel between Shabaz Beg and Allum Beg his Brother, or Behadar Beg his Nephew, which might induce Shabaz Beg to diſinherit his Male Heirs in Favour of his Wife? he ſaid, He remembered ſeeing Allum Beg ſome Years ago at the Houſe of his Brother, Shabaz Beg, to whom he was come on a Viſit from Cabool; and that he never heard of their having the leaſt Miſunderſtanding—That Behadar Beg came at an early Age to live with his Uncle, and not liking the Confinement of his Family, went to Benares, or perhaps further, in order to return to Cabool; but was invited back by his Uncle, with whom he afterwards lived upon the beſt Terms, till his Uncle's Death, which happened ſome Years after the Event abovementioned—That he (Mr. Law) had frequent Occaſion during the Illneſs of Shabaz Beg, to receive Application from Behadar Beg, as the Repreſentative of his Uncle—That it is not uſual among Muſſulmans to take away the Portion allotted by Law, from the next Male Heir, in Favour of their Wives—That the Mahomedan Law diſapproves of any Diſtribution of Property different from that eſtabliſhed by their Cuſtom; and that he does not recollect any Inſtance, during his long Reſidence in that Country—That he knew Shabaz Beg from his firſt Arrival at Patna; he had been in the Military Service of the Eaſt-India Company, and he believed in no other; the higheſt Station he had ſerved in, was that of Roſſoldar, or Commander of a Troop of Horſe; he knew not in what inferior Stations he might have ſerved; the Troop he commanded was broke ſoon after the Concluſion of the War with Coſſim Ali Cawn; and when he ceaſed to have any Command, he had ſome Allowance regularly iſſued to him, from one of the Brigade Paymaſters, as Half-pay, which was latterly paid him from Calcutta; he ſaw his laſt Receipt, but does not recollect the Amount; he believes it did not amount to 200 Rupees a Month.

Being examined as to the Nature of the Dewannee Adaulut, and aſked, Of how many Years ſtanding in the Service Gentlemen uſually are who preſide in them? he informed the Committee, That few acquire a Seat in the Provincial Councils in leſs than Ten Years, ſome more; and they preſide by Rotation in the Dewannee Adaulut—That they in general underſtand the Country Language, and there is always an Interpreter who is a Proficient in the Perſian Language to explain any Papers or Matters which the Preſident may not be ſufficient Maſter of the Language to underſtand—Of late Years the Provincial Chief has not preſided in the Dewannee Adaulut—The firſt Appeal lies from the Dewannee Adaulut to the Provincial Chief and Council at large; he has known many Appeals brought before them, and ſeveral Inſtances of Judgments of the inferior Courts being reverſed.—Being aſked, Whether he had ever heard of any Perſon preſiding in a Dewannee Adaulut, having farmed out the Profits of his Station for a certain Sum? he ſaid, He never had; nor did he think ſuch a Thing poſſible, for where there is an immediate Appeal to the Council, it would anſwer no End—That if ſuch a Proceeding were to be made the Subject of a Complaint to the Governor General and Council, a ſevere Scrutiny would be made into it, and the Offender, if found guilty, would be diſmiſſed the Service with Diſgrace.

Being aſked, Whether he had known Inſtances of Complaint to the Governor and Council againſt the Company's Servants employed in any Civil Capacity? he ſaid, He knew ſeveral had been made, and that in ſuch Caſes other Gentlemen had been appointed to examine the Complaint, and lay their Proceedings before the Governor General and Council; and that if the Complaint was juſt, they have diſmiſſed the Offender.

Being aſked, Whether it was the Cuſtom for the native Officers of Juſtice, to receive Preſents from Litigants? he ſaid, The Practice had always been reprobated in the Dewannee Courts; and though it had, and might ſtill in ſome Degree, prevail, he believed the Inſtances were very rare—He conceived, that even before the Eſtabliſhment of the Engliſh Courts, Preſents made previous to the Deciſion of the Suit, were conſidered as corrupt, and meant to influence the Judgment of the Magiſtrate, however authorized by Cuſtom.

Being aſked, If the Natives conſidered it as a great Hardſhip to be obliged to plead to the Juriſdiction of the Supreme Court? he anſwered, They certainly muſt; becauſe, as the Matter now ſtands, they are liable to be conveyed away by an abrupt Seizure, from their Family and Friends, to leave their Affairs quite unſettled, to be carried to the Diſtance of 500 Miles, and there, if they cannot find Bail, which, from Diſtance and other Circumſtances, muſt frequently happen, they are thrown into the Common Gaol; and all this Proceſs upon the ſimple Affidavit of any Perſon whatever; whether he is a Man of Credit, or not, forms no Part of the Queſtion; it is ſufficient if it be declared on Oath, that the Perſon proſecuted is within the Juriſdiction of the Court; after ſome Months Confinement, ſhould it appear to the Court that he was not within its Juriſdiction, he is diſcharged from Gaol without any Compenſation; though if he was a Renter under Government, it is probable that his Farm would be gone to Ruin, or put into other Hands from a Deficiency of Payment; it is well known, that the Ryots in ſuch Caſes would take Advantage of the Abſence of the Renter, to evade Payment; ſo that, in fact, a Man is ſeverely puniſhed before it is known whether he is amenable to the Court or not.

The Act of ſeizing a Man of Rank, very much degrades him in the Opinion of Men of all Claſſes; and is, he apprehends, a Circumſtance which, under the Mahomedan Government, would never happen, but upon Proof of great Delinquency.

It is not uncommon in the Country Courts to give Security in the Nature of Bail; ſometimes the Security is perſonal, and ſometimes to anſwer for the Amount of the Damages decreed, or which may be decreed.

Being aſked, Whether ſome Gentlemen, againſt whom an Action was brought by Nadarah Begum, did not prefer Bills of Indictment againſt her and Zekeriah, and other Perſons, Witneſſes to the Perſian Deeds produced in the Cauſe? he ſaid, An Indictment was preferred by Mr. Young and himſelf againſt her, and thoſe whom they conſidered as her Agents in the Forgery. And being aſked, Whether he thought himſelf juſtified in proſecuting Natives of India, who were not in the Service of Europeans, in the Supreme Court? he ſaid, Certainly, in the preſent Caſe; for the Queſtion with him was, whether Three innocent Men ſhould ſuffer perpetual Impriſonment in the Gaol at Calcutta? or whether thoſe Perſons who had retreated from their own Laws, and had choſen the Engliſh Laws, ſhould, as well as the Benefit, be liable to the Severity of it? upon that Ground, he thought himſelf fully juſtified in undertaking the Proſecution; beſides which, he conceived himſelf in a Manner called upon by the Chief Juſtice, and begs Leave to refer to an Extract of his Minute in the Civil Cauſe, delivered in to the Governor General and Council.

He ſaid, The Bill of Indictment was found by the Grand Jury, but afterwards quaſhed by the Court before Trial; and that a Petition was preſented by Nadarah Begum, for a Copy of the Indictment, in order to commence an Action for a malicious Proſecution; which was neither granted nor refuſed by the Court, though he particularly requeſted a Deciſion, as he was then about quitting India.

In the Courſe of this Examination before Your Committee, Richard Barwell, Eſquire, a Member of this Houſe, who was of the Council General of Bengal during the Time of the Proceedings in the Patna Cauſe, was aſked, Whether he remembered any Thing of the Patna Cauſe? he ſaid, He certainly did, it was a Matter of too much Magnitude to have eſcaped his Memory, but the Particulars of it he had not examined, or read within this Twelvemonth.—Being aſked, If the ultimate Deciſion of the Patna Cauſe, with all its Effects and Conſequences, was pleaſing and popular with the Body of the Natives, as an Act of ſubſtantial and exemplary Juſtice? ſaid, He did not believe it was pleaſing; he had heard many of the Natives ſpeak with ſtrong Diſapprobation of the Deciſion.

Mr. Barwell being aſked, Whether the Cauzees, Muftees, Moulavies, and Pundits, are remarkable for their Corruption and Ignorance in the Laws they profeſs? ſaid, The Principles of the Mahomedan Doctors he had heard queſtioned, but he never heard them charged as remarkable for Corruption or Ignorance—the Hindoo Law Expounders, or Pundits, are a very extraordinary Set of Men; they profeſs to hold little or no Property, and depend upon the Community in which they live; and ſaid, he believed theſe People beyond the Reach of Bribery, and that they are reſorted to upon all Occaſions when the Queſtions of Property are complicated.—Being aſked, If it was not thought that the native Expounders of the Law, whether Mahomedans or Hindoos, were frequently influenced by Engliſh Gentlemen, to give falſe Expoſitions of the Law? ſaid, That he had heard this aſſerted, but in no Inſtance in Appeals that ever came before the Court, did he ever detect the native Expounders of the Law, whether Mahomedans or Hindoos, giving a falſe Expoſition of the Law—That many Appeals came before the Governor General and Council.—Being aſked, Whether the Members of the Provincial Councils preſiding in the Courts of Adaulut, were ſuſpected of Venality, or any other Corruption in their Judgments? ſaid, That the Inſtitution of the Courts of Adaulut was calculated to preclude any improper Influence in the European Judges; the State of Society in England, and the Principles that direct Mankind, he believes have the ſame Weight over the Minds of Men Abroad—he does not recollect any Inſtances of Corruption in the Judges of the Courts of Adaulut.—Being aſked, If he had ever heard any Inſtance of a Member of a Provincial Council ſelling the Emoluments ariſing from the Adaulut over which he preſides in Rotation? ſaid, That he did not know of any, nor does he know of any Advantages of Office to be diſpoſed of.—Being aſked, If, from his Knowledge of the Country, he could ſay, whether the Natives have Confidence in the Provincial Adauluts? ſaid, He was of Opinion they had; he did not believe they wiſhed to ſubſtitute the Supreme Court in the Place of the Provincial Adaulut.—Being aſked, Whether he thought they would wiſh that their Appeals ſhould lie from the Provincial Adaulut to the Governor General and Council, or to the Supreme Court? ſaid, He believed they would prefer it to be to the Governor General and Council; a ſimple Inſtitution, and a direct and inſtantaneous Adminiſtration of Juſtice, determines this Preference, for it muſt be indifferent to the Natives what ſet of Men adminiſter Juſtice.—Being aſked, Whether they might not conſider the Supreme Court as more impartial, becauſe leſs connected with the Government of the Country, or with the Servants of the Company? ſaid, He believed they thought the Supreme Court very impartial; the real Objection to the Court aroſe, he believes, from the Difficulties the Natives are ſubject to in the Proſecution of their Claims in a different Language, and in the Mazes of the Law—they are all accuſtomed to plead their own Cauſes in their own Courts.

Major Rennell being examined as to the general Eſtimation in which the Adminiſtration of Juſtice in the Country Courts was held by the Natives; and being aſked, Whether the Cauzees and Muftees, and Indian Profeſſors of Law, are in evil Repute in that Country? he ſaid, He does not recollect hearing any Thing for or againſt their Characters—That he has often been in their Company, was told the Nature of their Office, and has ſeen them treated with Reſpect.—Being aſked, Whether that Reſpect appeared to him to be the Effect of Fear or of Opinion? he ſaid, Of Opinion—That the People of Bengal treat all the Learned and Religious with Veneration; a Veneration not eaſily conceived by thoſe who have not been in that Country; which would hardly be paid to them if they were conſidered as generally corrupt.—Being aſked, If the Natives were diſſatisfied with the Courſe of Juſtice, as adminiſtered according to their own Laws and Uſages? he ſaid, By no Means; and by what he has learnt from them, the Adminiſtration of Juſtice in their Country Courts is juſt the ſame now as it was under the Mahomedan Government—That he believes they do not deſire a better; nor does he ſuppoſe they ever did, becauſe they are ſo exceedingly attached to their own Manners and Cuſtoms, that they have ſcarce an Idea of a better Mode.—Being aſked, Whether they are not conſidered as entirely under the Influence of Engliſh Gentlemen, who preſide in the Provincial Courts? he ſaid, They are in common with all the reſt of the Inhabitants of the Province; but that the People do not complain of not obtaining Juſtice on account of the Influence of the Provincial Council over the Cauzees and Muftees.

Your Committee having proceeded to examine into the Circumſtances of an Action brought by Gora Chund Dutt, verſus William Hoſes, and others, ſo far as the Papers before them enabled them to do ſo; and perceiving, that this Caſe reſembled, in ſome Meaſure, the Caſe of Nadarah Begum againſt Behadar Beg, and others, which the Committee have juſt reported, but that the Judgment of the Supreme Court was not the ſame in both Caſes; have thought it proper to inſert ſo much of this Cauſe in the General Appendix, N° 4. as will enable the Houſe to underſtand the Nature of the Action, and the Ground of the Judgment in it.—

They will ſtate generally in this Place, that the Action was brought by the Plaintiff againſt Mr. Hoſea, who was Member of the Provincial Council at Muxadabad, and Roy Dularoy, Dewan of that Diviſion, on account of Acts done in the Execution of a Decree of the Dewannee Adaulut; in which he preſided; that the Action was defended by the Governor General and Council; and that a Plea of Not Guilty, with a Notice of Juſtification, as in the Patna Caſe, was given in by the Defendants. And Your Committee think it proper to tranſcribe in this Place, ſome Words, ſtated in the Report of the Company's Attorney, to have fallen from the Chief Juſtice in that Cauſe, that the Houſe may be the better enabled to underſtand how far the Circumſtances and the Judgment in the Two Cauſes, correſponded with or varied from each other.

Extract from the Report of Mr. North Naylor, Attorney to the Company in the Cauſe, Gore Chand Dutt againſt Mr. Hoſea and others.

The Chief Juſtice ſaid, "That in caſe of Suits inſtituted before the Provincial Councils, except in
"Caſes of manifeſt Corruption, the Court will not enter into the Regularity of the Proceed-
"ings;" and he afterwards ſaid, "I do not think it the Province of this Court, to enquire into
"the Irregularity of the Court's Proceedings."

And Your Committee, in Purſuit of the Objects referred to their Inquiry, proceeded to inveſtigate the Circumſtances of a Diſpute which happened in the Province of Dacca, in the Month of September 1777; which they propoſe to ſtate fully, as it will furniſh an Illuſtration of the Effects produced by the Reſidence of an Attorney of the Supreme Court in a diſtant Province, and the Interruption given to the Adminiſtration of Criminal Juſtice in the Country Courts by his Proceedings.

It appears to Your Committee, That the City of Dacca is a rich and populous Town, and the Capital of the abovementioned Province, which forms one of the grand Provincial Diviſions of Bengal; yielding to the Eaſt India Company an Annual Revenue of about £. 350,000 Sterling, and One of the moſt flouriſhing Parts of the Country for its Trade and valuable Manufactures. And it appears, that for the Civil Adminiſtration of this, as of all the other grand Provincial Diviſions, and for the Collection of the Revenues thereof, there was and is a Provincial Chief and Council, acting under the Orders of the Governor General and Council; excluſive of a Commercial Chief, whoſe Duty was confined to the Mercantile Concerns of the Company, and who was placed under the Orders of the Board of Trade at Calcutta: That there was a Court for deciding on Matters of Property, ſtiled the Dewannee Adaulut; in which all the Members of the Council ſat as Judges by Rotation, attended by the Provincial Dewan (except the Chief, who never ſat in that Court) with an Appeal in all Caſes to the Provincial Chief and Council, and in Sums exceeding One thouſand Rupees, or about £. 120. to the Governor General and Council.

That all Revenue Cauſes, and all Claims to the Inheritance of Lands paying to the Government an Annual Revenue of more than One thouſand Rupees, and in particular Caſes, Suits upon private Property, were heard in the firſt Inſtance, by the Provincial Council at large, with the Aſſiſtance of various Officers of the Revenue Department, and by Perſons learned in the Mahomedan or Hindoo Laws, as the Claimants might be of the one or the other Religion. And all Matters of Criminal Juriſdiction were under the ſole Cognizance of a Court, ſtyled the Phouſdarry, or Criminal Court, conſiſting of a Provincial Phouſdar or Criminal Judge, a Darogha or Superintendant, and various Officers learned in the Mahomedan Laws—That this Criminal Court does not derive its Authority directly from the Governor General and Council, nor are its Officers directly nominated by them; the Court itſelf is a Remnant of the ancient Country Government, and its Forms, Rules, and Modes of Proceedings, continue nearly the ſame as they had been during the Prevalence of the Mogul Empire. The Perſons who act in that Court, are appointed by the Naib Subah, or Nabob's Deputy, and report their Proceedings to that ſuperior Magiſtrate, to be confirmed or reviſed as to him ſhall ſeem proper, without the known Interference of any other Power, and without any remarkable Matter or Cauſe of Complaint for Abuſe, or failure of Juſtice.

And on this Footing, Criminal Juſtice continued to be adminiſtered until the Middle of the Year 1777, when Mr. Samuel Peat arrived at Dacca.

Your Committee find, That the ſaid Mr. Peat acted as an Attorney at Law of the Supreme Court of Judicature; he was alſo a Maſter Extraordinary in that Court, for the Purpoſe of taking Affidavits, upon which Writs of Capias were iſſued, and afterwards executed by him and his Servants, in Quality of Deputy Sheriff. For the particular Circumſtances of Mr. Peat's Arrival at Dacca, and the firſt Complaints of Inconveniencies ariſing from his Proceedings, Your Committee refer to the Correſpondence of the Governor General and Council with the Provincial Council of Dacca, and with Mr. Juſtice Hyde, which is entered in the Dacca Appendix to this Report, Nº 1, 2, 3, 4, 5.

Your Committee have thought it neceſſary to prefix the foregoing Sketch of the Provincial Government of Dacca, which is ſimilar to that of the other Provincial Diviſions of Bengal, as it may enable the Houſe more perfectly to underſtand the Circumſtances of this Diſpute, and various other Matters of Fact which will be ſubmitted to their Conſideration in this Report.

And Your Committee find, That in the Month of September 1777, the ſaid Diſpute aroſe at Dacca, between the Officers of the Supreme Court of Judicature and the Provincial Criminal Court, ſtiled the Phouſdarry, in conſequence of a Proceſs of Arreſt iſſued by one of the Judges of the Supreme Court, at the Suit of a Perſon called Khyrû Pyke (meaning a Servant or Meſſenger) againſt Jaggernaut, the Dewan or principal public Officer of the Provincial Criminal Judge or Phouſdar of Dacca, for Treſpaſs and falſe Impriſonment; in which, Bail of Ten thouſand Rupees, or about One thouſand Pounds Sterling, was required.

And Your Committee find, That the Perſon of the ſaid Jaggernaut not having been ſecured by a Native called Dundi, acting as Bailiff upon that Duty, and his Party, Mr. Peat, the Deputy Sheriff reſiding in that City, went in Perſon to the Houſe of Syed Ally Cawn, the Provincial Phouſdar, or Criminal Magiſtrate, which he forcibly entered, by breaking down the Gate of the Houſe, accompanied by a large Number of Attendants; that a Fray aroſe in the Court of the ſaid Houſe, in the Courſe of which Mokurrim Ally Cawn, the Father of the Phouſdar, was wounded on the Head with a long Sword by one of Mr. Peat's Attendants, and Meer Hoſſain Ally, the Brother-in-law of the Phouſdar, was very dangerouſly wounded in the Body by Mr. Peat himſelf with a Piſtol Shot.

And Your Committee find, That the firſt Intimation of this Diſturbance was conveyed to the Provincial Chief by a Perſian Letter from the Provincial Phouſdar, September the 20th, 1777, mentioning, that Doondy with his People, had attempted to ſeize and carry away Jaggernaut, his Dewan or Peſhkar (meaning a principal Servant of his Court); that he had informed Doondy, that the Officers of his Department were not amenable to the Juriſdiction of the Supreme Court of Judicature; that ſeeing Doondy call together almoſt Fifty People, he ordered the Gate to be faſtened; that Doondy's People were attempting to force the Gate, and throwing Bricks into the Houſe, and had plundered the Palanquin Houſe; and if (which God forbid) they ſhould force the Gate, the Honour of his Women would be affected, which he held more valuable than Life. The Letter concluded, with requiring a Reaſon for thoſe Oppreſſions, and a Demand for Juſtice. Dacca Appendix, Nº 7.

And Your Committee find, That before any Anſwer could be ſent to the Phouſdar's Letter, the Provincial Chief received a Letter from Mr. Peat, acquainting him, that Reſiſtance had been made to a Proceſs ſerved under his Directions as Deputy Sheriff upon the abovementioned Jaggernaut; that he was attacked by a Man with a Sword and Target, and in his Defence ſhot the Man—And deſiring Sepoys might be ſent to guard him, or take him into Cuſtody, and to ſecure the Perſon who had been arreſted. Dacca Appendix, Nº 6.

A Letter was written of ſimilar Import to Lieutenant Cowe, Commanding Officer of the Militia; acquainting him moreover, that a Neglect to ſend him (Mr. Peat) the Aſſiſtance he required, would render Lieutenant Cowe a Party in the Reſiſtance. Dacca Appendix, Nº 6.

And Your Committee find, That the Meaſures taken on that Occaſion by the Chief, were, to ſend a Surgeon to examine the Wound received by Meer Hoſſain; to ſtation a Military Guard over Mr. Peat's Houſe, as well to ſecure him from Moleſtation, as to prevent his Eſcape in caſe the Man ſhould die; and to detach a Reinforcement of Militia to the Phouſdar, to keep the Peace of the City.

Advice of theſe Tranſactions was immediately ſent to the Governor General and Council by the Provincial Council; who ſay, that "If Mr. Peat ſhould produce or ſend any of His Majeſty's "Writs to them, formally requiring their Aſſiſtance, they certainly ſhall conſider themſelves as "bound to comply." Dacca Appendix, Nº 6.

And Your Committee find, That Two Days afterwards, being the 22d of September, the Phouſdar attended in Perſon at the Meeting of the Provincial Council; to whom he delivered a long Repreſentation, in his own Name, on the Subject of this Diſturbance; ſtating the Circumſtances and Progreſs thereof, and ſupporting the ſame by Teſtimonials under the Signature of various Perſons, who were preſent at the Time. In all which it is affirmed, That he was ſitting in his Dewan-connah (or Hall of Audience) with ſeveral of his Friends, and the public Officers of his Court, when Doondy, on the Part of Mr. Peat, attempted to ſeize his Dewan or Chief Servant, in a contemptuous and diſreſpectful Manner; and that no Writ or Warrant was produced by him, or by Mr. Peat himſelf, either before or after he had forcibly entered the Houſe.—And the ſaid Repreſentation of the

Phouſdar concludes in the following Manner: "You, Gentlemen, are the Rulers of the Country: "On you I depend for Juſtice. Excepting over the Servants of the Company, and the Engliſh, "a Warrant has no Authority. What Crime have I committed, that my Houſe ſhould be entered "and plundered; and that my Father, Brother, and other Men, Inhabitants of the City, who had "come on a Viſit, ſhould be wounded and diſgraced? I pray for Juſtice." Dacca Appendix, N° 8.

And Your Committee perceive, in the Conſultations of the Provincial Council of Dacca, that on the ſame Day Jaggernaut ſurrendered himſelf to them; ſetting forth, "That he had never "ſeen any Warrant pretended to be ſerved upon him: That he meant no Diſreſpect to the Court, "nor any Way to elude Juſtice: That he was a Servant of the Phouſdatry Court, and ready to "anſwer in the Courts of the Country to any Charge that could be laid againſt him: That he did "not underſtand the Rules of the Engliſh Court; nor was under its Juriſdiction: That if Security "was required for him, he would give it: And that the Behaviour of Mr. Peat's Jemautdar "(Doondy) towards him, aroſe from private Pique and Reſentment," &c. At the ſame Time referring to a written Repreſentation he then delivered in. Dacca Appendix, N° 8.

And Your Committee find, That this Diſturbance cauſed a Ceſſation of Criminal Juſtice in the Province of Dacca; as the Phouſdar declared "He did intend to have ſat in public Court on the 21ſt; "but that every Thing now was thrown into a State of Confuſion, and he could not think of going to "preſide in a Court of Juſtice, when he was not ſafe even in his own Houſe, from the Officers "of the Engliſh Court."

And Your Committee find, That the Provincial Council at this Period wrote to Mr. Peat; acquainting him of Jaggernaut's Surrender; his Denial of having ſeen the Writ, or knowing the Subject thereof; and his Declaration, that he was not amenable to the Court's Juriſdiction. The Provincial Council hereupon informed Mr. Peat, that it is their Duty, from the Stations they hold, to take every poſſible Meaſure for maintaining the Peace of the City and Province: That Jaggernaut is a principal Servant in the Provincial Phouſdarry Court: That the Phouſdar has, at all Times, had a conſiderable Military Force at his Command; and that both the Phouſdarry Officers and that Force are entirely independent of the Authority of the Provincial Council. And they conclude, for theſe and other Reaſons there aſſigned, with expreſſing their Wiſh and Requeſt, that no further Proceſs might be made, or Meaſures taken, until he and they could receive the Orders of their reſpective Superiors; holding themſelves anſwerable, during the Interim, to produce the Perſon of Jaggernaut, whenever it ſhould be required. Dacca Appendix, N° 8.

In Anſwer, Mr. Peat acquainted the Provincial Council, He had not the leaſt Doubt that the legal Arreſt of Jaggernaut, his contemptuous tearing of the Writ, and his ſubſequent Reſcue, would all be fully and ſatisfactorily proved at a proper Time and Place: That Jaggernaut had been thought an Object of the Juriſdiction of the Supreme Court by the Judge who ordered the Writ to iſſue; and he could accept no other Security, than the Bond of the Defendant, and Two other reſponſible Perſons: That it was the Duty of the Sheriff to execute the Proceſs of the Court, whether ſuch Proceſs be right or not; and if the Defendant is not in the Juriſdiction of the Court, he ſhould plead it, and not reſiſt the Execution of the Proceſs, or endeavour to eſcape. And the Letter concludes with hoping, that as the Military Force under the Phouſdar are the Forces of the Company, the Gentlemen of the Board will think proper to acquaint the Phouſdar, that ſuch Military Force ſhould not be employed in reſiſting legal Authority. Dacca Appendix, N° 8.

And Your Committee find, That after theſe and other Letters had paſſed betwixt the Provincial Council and Mr. Peat (Particulars of all which are entered at Length in the Papers annexed to this Report, N° 8) the Provincial Council, from Motives aſſigned in their Conſultations, reſolved, "as the moſt effectual Mode of preſerving Tranquillity," to depute Two Members of their own Board to attend Mr. Peat in Perſon, with Jaggernaut. The Reſult of which Interview was, that Jaggernaut, after offering to make Affidavit that he had never ſeen the Writ in Queſtion (which Affidavit Mr. Peat refuſed to receive) was given into the Cuſtody of Mr. Peat, and releaſed by him upon executing a Bail Bond, jointly with the Two Members of the Provincial Council, for the Sum of Ten thouſand Rupees; but at the ſame Time, proteſting againſt, and denying, that he was an Object of the Juriſdiction of the Supreme Court. The Grounds of which Declaration were more preciſely ſet forth in a written Proteſt, afterwards ſerved upon Mr. Peat by Jaggernaut, dated the enſuing Day. Dacca Appendix, N° 8.

And Your Committee obſerve, That in this Tranſaction Mr. Peat acted in the Two ſeveral Capacities before mentioned, as an Attorney in the Supreme Court, and Sheriff's Deputy; and that the Bailiff who went to ſerve the Proceſs of the Court upon Jaggernaut, was Mr. Peat's Servant.

It likewiſe appears, that ſome Petitions of Natives, which do not immediately belong to this Head of Enquiry, were written by Perſons held under Confinement in Mr. Peat's Houſe.

And the Buſineſs being brought to this Point, Your Committee find, That the Provincial Council

communicated the Whole of their Proceedings by Letter, to the Governor General and Council, dated
September 22d 1777. In which they repreſent the Motives of the Conduct they have obſerved; the
Irregularity and bad Tendency of Mr. Peat's Proceedings; the Hardſhip and difficult Situation of
the Phouſdarry Officers, who had been inſtructed by their immediate Superior, the Naib Subah,
that they were not liable to the Juriſdiction of the Supreme Court; the real Subject of the Suit
againſt Jaggernaut, for Acts done by him in his official Capacity, as far as they were then able to
diſcover it. And they conclude with the following Paragraph: " It is fitting we ſhould point out
" to your Notice, that all criminal Juſtice is at a Stand, and ſeems not likely to be reſumed until the
" deciſive Conſequence of the preſent Diſputes ſhall be publicly declared and known. It touches ſo
" the very Exiſtence of Government throughout the Province, that the Juriſdiction of the Phouſdar,
" and his Superior, the Naib Subah, be admitted free from all Doubt or Ambiguity. How, other-
" wiſe, can it be ſuppoſed a Phouſdar will perform any Function of his Office? How preſume to
" execute a Criminal convicted, and ſentenced to Death, by the eſtabliſhed Laws of the Government
" and his Religion, if he is liable himſelf to ſtand to Actions of Damages, as in the preſent Suit
" againſt the Dewan, or to anſwer to a criminal Accuſation, for any Puniſhment he may inflict, be-
" fore the Supreme Court of Judicature, whoſe Judges are bound by their Oaths to judge according
" to the Laws of England? The penal Syſtem of Mahomedan Juriſprudence admits of Puniſhments
" not known to the Laws of our own Country, or known to them only as the Deſcription of Of-
" fences, which may be capitally puniſhed. Paint to yourſelves, Gentlemen, the Anarchy and Diſ-
" traction which may ariſe, if the preſent Uncertainties are not effectually removed." Dacca
Appendix, N° 8.

And it appears, That before the Provincial Council had received any Orders from the Preſidency, Jaggernaut left Dacca, and proceeded to Calcutta, that he might be at hand to receive Orders from his immediate Superior, the Naib Subah, or to anſwer any Queſtions the Governor General and Council might have to aſk of him.

And Your Committee find, That whilſt theſe Meaſures were purſuing at Dacca, a Letter was written to Lieutenant Cowe (who, in the Application of the Military Force, he commanded, had acted under the Directions of the Provincial Chief) from Mr. Juſtice Hyde, one of the Judges of the Supreme Court; which has been verified to Your Committee by Mr. Cowe, now in England, and which Your Committee judge it expedient to inſert in this Place, verbatim.

" Sir,

" By what I have heard, I preſume you will receive Orders by the Poſt of To-night, to give Aſſiſt-
" ance to Mr. Peat in arreſting again Jaggernaut, who has been reſcued; and in ſo doing, it is law-
" ful to break open Doors, and he is not now to be bailed, but muſt be ſent to Calcutta.

" Mr. Peat informs me, you doubted whether the Command in His Majeſty's Charter, to give
" Aſſiſtance in the Execution of the Powers of the Court, applied to Caſes of Civil Suits.—It cer-
" tainly does, when ſuch Aſſiſtance is neceſſary; but beſides, the Nature of the Caſe is now altered,
" for the Reſcue is a Crime in which Jaggernaut partakes. If the Man who is ſhot dies, I have no
" Doubt you will give ſufficient Protection to Mr. Peat, who, in that Caſe, muſt come to Calcutta for
" his Acquittal. If he does not die, and any Body ſhould adviſe or order you to bring him (I mean
" Mr. Peat) hither againſt his Will, and without ſome Warrant from One of the Judges, I (only
" becauſe I ſhould be very ſorry that any Gentleman who meant only to do his Duty, ſhould ſuffer
" any Inconvenience from it) caution you to beware; for the impriſoning an Officer of the Court is a
" Contempt, for which the Puniſhment is Impriſonment, as well as Fine. If any Perſon deſires you
" to impriſon Mr. Peat, I ſhould adviſe, that you aſk a Bond of Indemnity in a large Sum, becauſe
" it is probable he would recover a very large Sum in an Action.

" I beg the Favour of you, for fear my Letters to him ſhould not be ſuffered to come ſafe, to tell
" Mr. Peat, that I highly approve his Conduct, and doubt not he will receive proper Support from the
" Court, whoſe Officer he is.

" I doubt not you will give him full Protection from the People of the Phouſdarry; becauſe, as a
" Britiſh Subject, I doubt not you will pay due Attention to your Allegiance to the King, as well as
" to your Duty to the Company.

" I am, Your's, &c.

" Fort William,
" Tueſday, Sept. 23, 1777.

" John Hyde."

Upon Peruſal of this Letter, it appears, That the Provincial Council wrote in more urgent Terms to Calcutta, for the moſt explicit Directions of the Governor General and Council.

And that about this Time, Application being made to the Provincial Phouſdar, to iſſue his Proceſs againſt Perſons who were repreſented to have murdered, not only their Maſter (the Proprietor of a Tract of Land in the Pergunnah of Turraff, about One hundred Miles from Dacca) but likewiſe his Mother, and Two principal Servants, the ſaid Phouſdar declined to iſſue any Proceſs whatſoever, or to diſcharge the Functions of his Office; aſſigning his Reaſons for thus ſuſpending the Courſe of Juſtice, in a Letter to the Provincial Chief; Tranſlation of which is entered in the Dacca Appendix, N° 7.

And with Regard to the particular Grounds of the Suit againſt Jaggernaut in the Supreme Court of Judicature, for which Bail was demanded of about One thouſand Pounds; it appears, that Jaggernaut himſelf, at the Time the Diſpute firſt aroſe, offered to ſwear, That he was ignorant what was the Subject of the Complaint. Mr. Peat informed the Provincial Council, only, that it was "not for Debt, but for an enormous perſonal Wrong:" The Abſtract taken from Mr. Peat's Note Book, ſtates it to be "for Treſpaſs and falſe Impriſonment;" and the Provincial Council, in their Letter of 22 September 1777, above referred to in N° 8, ſay, "that according to the Lights they "had been able to obtain, Khyrû, the Complainant in the Supreme Court, had been arreſted by "the Phouſdarry Court for ſome Miſdemeanor, and upon regular Conviction and Decree of that "Court, was confined, and obliged to make Reſtitution:" That after that, Khyrû had been ſent Priſoner to the Naib Subah, "to anſwer to ſome Complaint exhibited at his Tribunal;" and that Jaggernaut had ſometime before given this Information to Mr. Peat, in Anſwer to a Letter he had written, as Attorney at Law, demanding Khyrû's Releaſe.

Your Committee now proceed to ſtate what appears to have been the Meaſures taken in this Buſineſs by the Governor General and Council. On the 23d of September 1777, the Governor General having received Information from the Sheriff, Mr. Wodſworth, "That Jaggernaut Dewan had, "with an armed Force been reſcued from his Officers at Dacca, and that his Deputy, Mr. Peat, had "been threatened with an armed Force to attack him in his Houſe, and that he therefore, by virtue "of His Majeſty's Charter, deſired the Aſſiſtance and Protection of the Company's Military Forces;" a Conſultation was held upon that Letter, and the firſt Advices received from Dacca; the Company's ſtanding Counſel was conſulted (the Advocate General not being then arrived) and a Letter was diſpatched to the Provincial Council, very much approving the Steps they had taken, and directing them to offer the Sheriff's Officer every Aſſiſtance he might require to execute the Warrant upon Jaggernaut, to continue the Guard upon Mr. Peat's Houſe, to ſend him down under a Guard, in caſe the wounded Man ſhould die, together with all other Perſons concerned in the Fray; and to take the Depoſitions in Writing of all ſuch as could give any Information upon the Subject. Dacca Appendix, N° 6.

And it appears, that on the Receipt of the Dacca Letter before mentioned, Appendix, N° 8. the Governor General and Council further wrote to the Provincial Council, That they much commended the Prudence and Diſcretion which they had ſhewn in all their Proceedings, reſpecting the late unfortunate Diſturbances created by Mr. Peat; approved of their having become Bail for Jaggernaut; and directed them to recommend to the Officers of the Phouſdarry Court, in caſe any Writs or Warrants ſhould be iſſued againſt them in future, to ſubmit to them without Reſiſtance, and give Intimation thereof to the Preſidency, that the Company's Council might plead to the Juriſdiction. And a Letter of like Import was written at the ſame Time to the Naib Subah, that his Orders might be ſent to the Officers of the Phouſdarry, who were under his Authority. Appendix, N° 8.

It appears alſo, That the Governor General and Council took the Opinions of the Company's Counſel upon the ſeveral Papers tranſmitted from Dacca, with regard to the Legality of Mr. Peat's Proceedings; which Opinions are annexed in the Dacca Appendix to this Report, N° 9; and in the Interim, directed the Provincial Council to recommend, in the moſt earneſt Manner, to the Phouſdar, to enter upon his Office, and exerciſe the Functions thereof, as the Peace of the Country would be greatly endangered by a Suſpenſion of its Powers.

And it appears, That the Dacca Phouſdar, upon being appriſed of theſe Sentiments of the Governor General and Council, and having received Inſtructions from the Naib Subah, conſented to diſcharge the Buſineſs of his Office in Caſes where the Peace of the Country might require it: but obſerved, that "until the Diſpute againſt Men in Office ſhould be ſettled, it would be very difficult to go "through the Buſineſs with Satisfaction." He ſtates the various Conſiderations which render it difficult and hazardous for him to proceed in executing the Duties of his Station, as a Criminal Magiſtrate, if he ſhould be liable to have Proceſſes iſſued againſt him from the Supreme Court of Judicature, and to make a Defence in that Court on every Deciſion he might paſs, in which one Party muſt neceſſarily be diſſatisfied. Dacca Appendix, N° 10.

And the Provincial Council, in Conformity to Inſtructions from the Governor General and Council, proceeded to take the Depoſitions upon Oath of the Two wounded Perſons, and of Ten others who had been preſent at different Periods of the Fray; enquiring very particularly into all the Circumſtances thereof; and on tranſmitting thoſe Depoſitions to the Governor General and Council, make this Obſervation, "Without having heard all the Evidence which may be brought by every "Party, it is certain, that no deciſive Judgment can be formed; but we are at leaſt juſtified in re"marking, that from all the Depoſitions we have taken in purſuance of your Orders, with a Mi"nuteneſs of Inquiry which might lead to an impartial Diſcovery of Truth, there ariſes not the "ſmalleſt Ground of Belief, that any Writ of the Supreme Court was produced, much leſs that

" it was torn and treated with Contempt by Jaggernaut, or any other Servants of the Phouſ- " darry." And Mr. Peat having applied to the Provincial Chief on the 1ſt of October 1777, to remove the Guard from his Houſe, as the Perſon he had ſhot was neither dead nor likely to die; obſerving in his Letter, that the putting any Reſtraint upon his perſonal Liberty without his Conſent, would be a Contempt of the Supreme Court beſides a private Injury, for which he would be entitled to Redreſs: The Chief acquainted him in Anſwer, that the laſt Report of the Surgeon was unfavourable; but that he had directed both the Surgeons to attend him the enſuing Day, and ſhould be happy if their Report might be ſuch as to juſtify him in removing the Guard; if not, he ſhould refer the Matter to Mr. Juſtice Chambers, who was then paſſing through the Town.—All which Depoſitions and Proceedings are annexed in the Dacca Appendix, N° 9.

And it appears, that Mr. Juſtice Chambers declined interfering in the Buſineſs. But the next Day the Provincial Council finding a Probability of Meer Hoſſain's Recovery, removed the Guard from Mr. Peat's Houſe; and as Meer Hoſſain, who had been ſhot by Mr. Peat, did not die of the Wound, the Governor General and Council ordered the Provincial Chief and Council to ſuſpend the Execution of their Orders for ſending the Witneſſes to Calcutta; leaving it to him alone, or the other Sufferers in the late Fray, to ſeek Redreſs from the Supreme Court, for any Injuries they might have ſuffered. What Redreſs was ever obtained, or what Mode was purſued to obtain any, after it was left to the Parties to purſue their own Meaſures, does not appear from any public Records in Poſſeſſion of Your Committee, or from other ſufficient Evidence. They perceive only, from an Entry in the General Account of Loſſes and Expences, ſtated to have ariſen to the Company from the Proceedings of the Supreme Court of Judicature ſince its firſt Inſtitution, that the Sum of 5,273 Current Rupees had been paid to Syed Ally Cawn, the Phouſdar, and 200 C.R^s to Jaggernaut Dewan, making about £. 550, for Expences incurred by them. Dacca Appendix, N° 9 and 11.

It behoves Your Committee to mention, that in all the Materials laid before them by the Eaſt India Company, or in the Papers tranſmitted by the Judges to His Majeſty's Secretary of State, and referred by the Houſe to this Committee, they do not find any Repreſentation or Remarks from all or any one of them, on the Subject of the Diſpute above related.

On the 13th of October of the ſame Year, Your Committee perceive there was a Repreſentation made to the Provincial Council of Decca, by Mirza Moſhin, the Darogha or Superintendant of the Phouſdary Court, on the Occaſion of a Proceſs ſerved upon him from the Supreme Court, to anſwer to a Plea of Aſſault and falſe Impriſonment, at the Suit of Francis Ford, a Taylor; in which Mr. Peat was Attorney. In this Repreſentation, he urges the Difficulty of diſcharing the Functions of his Office, if he, " who is appointed to correct Abuſes and Wrongs, is to give Anſwer to the Sum" monſes and Warrants of all the Offenders in the Engliſh Court, with which he is unacquainted." Dacca Appendix, N° 1, 2, 3, and 12.

Your Committee thought it expedient to take Notice of this Repreſentation, not on account of any important Circumſtances in the Caſe itſelf, but as an Incident, which ſuggeſts Queſtions of Magnitude to be decided by the Wiſdom of Parliament, in any judicial Regulations to be hereafter formed for the Territorial Acquiſitions in Bengal.

Firſt, Whether Britiſh Subjects of any Rank whatſoever, reſiding in the interior Parts of the Country, at a Diſtance from His Majeſty's Charter Courts, ſhall, in any Reſpect, be amenable before the native Magiſtrates of Police and Criminal Juriſdiction?

Secondly, Whether the native Magiſtrates of Police and Criminal Juriſdiction ſhall, as ſuch, be liable to the Juriſdiction of any Court of Engliſh Law, on what Principles, and to what Extent?

Having drawn from the public Records of the Company, the foregoing Narrative of the Interruption occaſioned to the Adminiſtration of Criminal Juſtice, by the Proceedings of the Supreme Court of Judicature, and their miniſterial Officer, Mr. Peat, Your Committee, referring the other Articles of Complaint againſt Mr. Peat to the Head of Revenue Juriſdiction exerciſed by the Company's Servants or Natives, proceed to ſubjoin to this Narrative, ſuch further Information as they have been able to procure from verbal Teſtimony, relating to the Diſpute with the Criminal Country Court, and its incidental Circumſtances.

And Firſt, they examined Charles William Boughton Rouſe, Eſquire, a Member of Your Committee; who informed them, That he had been employed at Dacca, in the Station of Provincial Chief; and that he was in that Office at the Time the Proceſs of the Supreme Court was iſſued againſt Jaggernaut, the Dewan or principal public Officer of the Provincial Criminal Magiſtrate or Phouſdar—That there never had, to his Knowledge, been any public Notification to the Officers of that Court, that they were amenable, in that Capacity, to the Juriſdiction of the Supreme Court, before that Proceſs was ſerved—That they received their Orders immediately from Mahomed Reza Cawn, the Naib Subah, or Nabob's Deputy, who notified their Appointment to him the Provincial Chief; but that, in a Letter written by the Governor General and Council, in September 1777 (after the Fray had happened) to the Provincial Council, it was directed, that in Caſe of Proceſſes ſerved from the Supreme Court upon Officers of the Phouſdarry Court, Notice ſhould be given to the Governor General and Council, that the Company's Attorney might plead to the Juriſdiction. And being further aſked, Whether there was any Letter from the Governor General and Council previous to the Proceſs againſt Jaggernaut, ordering or authorizing Mahomed Reza Cawn to write a Letter to the Phouſdar, informing him, that neither he nor the Officers of his Court were liable to the Juriſdiction of the Supreme Court? he informed Your Committee, That no ſuch Communication was made to the Dacca Council—That he does not know what Communication or Inſtruction there might have been from the Governor General and Council to the Naib Subah Mahomed Reza Cawn; but he remembers the Provincial Phouſdar ſhewed him a Perſian Paper of Inſtruction from Mahomed Reza Cawn, which he read, informing him, that no Warrants could operate upon the Officers of the Nizamut, (which Your Committee underſtand to be the Juriſdiction of the Nabob, under whom the Phouſdarry Courts were placed by the Conſtitution of the Mogul Empire).—And being aſked, Whether the Officers acting in the Phouſdarry Court, were conſidered as acting under or authorized by the Company? he ſaid, They were conſidered throughout the Country as a Part of that Syſtem of Judicature eſtabliſhed by the Governor General and Council, who acted as the Sovereign Power of the Country; and as to their Appointment, he was ſure that the choice of Men was not made by the Governor General and Council, nor by any Perſon of Influence at Dacca; that they certainly did not underſtand themſelves, nor were conſidered by others, as ſubject to the Juriſdiction of the Supreme Court, or reſponſible to it for their Conduct in Office: And the Ground upon which he formed that Opinion was, becauſe he did not recollect, that any Judgment had been given in the Supreme Court, declarative of ſuch Juriſdiction; becauſe the Inſtructions from their immediate Superior told them, they were not ſubject to it; and becauſe the Proceedings of their Court were not liable to any Controul of the Company's Servants: And moreover, it was a Branch of Government, ſeparate from that of the Dewanny, the Title by which the Company hold their Territorial Acquiſitions—That, from his Knowledge of the Country, he does not think it would be of Advantage but rather of Detriment, to the native Inhabitants, that this Criminal Court ſhould be made reſponſible for its Proceedings to the Supreme Court at Calcutta, on Actions brought by Perſons who ſhould conceive themſelves injured by its Proceedings or Deciſions. And being then aſked, Whether he did not think that ſome Kind of Superintendence under proper Reſtrictions, might be advantageous to the Country? he ſaid, He thought it would be very difficult to give to an Engliſh Court of Law, any Mode of Controul or Superintendence over a Body of Judges, who muſt decide upon all Matters of perſonal Injury by a Syſtem of Laws ſo totally diſſimilar.

And as ſeveral Suggeſtions had been made, in the Proceedings of the Supreme Court, againſt the Character and Ability of the native Judges and Men of the Law, the Witneſs being aſked, Whether the Officers of that Court of Phouſdarry, and the Expounders of the Law, were not notorious for their Corruption, Ignorance, and Incapacity? informed Your Committee, That Syed Ally Cawn, the principal Magiſtrate, is a Man of Birth, Education, and of a high Principle of Honour—That he believes the other Officers in general are well verſed in the Law they profeſs; and in ſome Deciſions which came to his Knowledge, he has found a Candour and Independence which would have done Honour to any Magiſtracy.—And being aſked, Whether they were not notoriouſly under the Influence of the Engliſh Chief and Council of their reſpective Diſtricts, not daring to decide any Point againſt their Inclinations? he ſaid, That he has not known any particular Caſe, nor heard of any Caſe, in which they were ſo, whilſt he was Chief at Dacca—That the Provincial Phouſdar frequently conſulted with him upon Matters of Conſequence, more eſpecially in Proceſſes to be ſerved by him, which more immediately might affect the Peace of the Country, or the Collection of the Revenue; but in the ordinary Deciſions of his Court he (the Chief) did never exerciſe the ſmalleſt Interference or Controul; nor does he think the Judges thereof would quietly have ſubmitted, if he had attempted it: This Information he means to apply to the State in which the Phouſdarry Department has been, ſince it was placed under the Direction of the Naib Subah—That he has not known any notorious Inſtances of Partiality and denial of Juſtice in that Court, where the Subah, or any of his Family or Officers, or thoſe of Engliſh Gentlemen, were concerned—That in ſome Caſes he thinks that Influence might operate, but as the preſent Syſtem of Government eſtabliſhes various Checks and Modes of Application for Redreſs, he does not think it could operate materially to the Prevention of Juſtice.

And Your Committee having obſerved, in a printed Pamphlet, purporting to be Letters from Mr. Peat, that a Crime of an important Nature had not been properly enquired into and puniſhed; the Witneſs was aſked, Whether he has not heard, that a Man named Khyroo, proſecuting in that Court for a Rape committed upon his Wife, was not only denied Juſtice, but ſuffered much Oppreſſion for having made ſuch Complaint? he replied, That he never did hear it, nor was the Name of Khyroo known to him, till he took Pains to make Enquiry concerning him, after the Fray had happened between the Officers of the Supreme Court and thoſe of the Phouſdarry; the Reſult of which was communicated to the Governor General and Council, in the Letter written to them on that Occaſion.—The Witneſs added, That he never did hear the ſmalleſt Intimation concerning any Injuſtice done to Khyroo, nor of its making a great Noiſe in the City of Dacca, or cauſing Diſcontent amongſt the Inhabitants: And had there been any great Act of Injuſtice committed by the Phouſdarry Officers, he is ſure he ſhould have heard of it, as there cannot be a Race of Men upon Earth more litigious and clamorous than the Inhabitants of Dacca; whom he has found always ready to renew their Complaints after regular Deciſions had been paſſed in a Court of Juſtice—That the general Temper of the People did not appear to him at all averſe to the Country Courts, as now eſtabliſhed in the Province, but that the Operation of the Supreme Court certainly excited much Diſcontent there.—And being aſked, Whether the Reſidence of Mr. Peat there, as an Officer of the Supreme Court, and an Attorney at Law, did not give a general Satisfaction to the Inhabitants of Dacca, as furniſhing the Means of ſcreening them from the Oppreſſion of the Country Courts? he ſaid, He was abſent from Dacca when Mr. Peat arrived; but underſtood, on his Return, he had been received with great Marks of Reſpect and Fear—That the common People of that Country would be pleaſed to reſort to any new Power, which would gratify their litigious Spirit; but the reſpectable Part of the Community ſuffered much Diſquiet.—And being aſked, Whether this Satisfaction of the lower Order, and the Diſpleaſure of the higher, had not ariſen particularly from the Oppreſſions which have been uſually exerciſed by the higher upon the lower Orders? he anſwered in the Negative; and ſaid, That if Government itſelf, or its Agents, do not ſet the Example of Oppreſſion, he does not think the higher Orders more diſpoſed to oppreſs their Inferiors, than they are in other Countries; that the moſt ſubſtantial Inhabitants of Dacca are Zemindars, Brokers who engage for the Manufacture and Purchaſe of Cloths, and Bankers, of whom many are concerned in the Buſineſs of Revenue: And over all thoſe, the Exerciſe of Engliſh Law would be peculiarly obnoxious; becauſe they have always, from the Cuſtom of the Country Government, exerciſed a Power over their Inferiors, which, if brought to Trial in an Engliſh Court, would ſubject them to ſevere Proceſſes, and heavy Damages—That the People of that Country, accuſtomed to an arbitrary Authority and ſummary Proceſs, naturally judged of Mr. Peat, and the Nature of his Employments, from the Power which they ſaw proceed from him, in receiving Complaints, iſſuing Proceſſes of Arreſt, and perſonal Impriſonment; and all theſe avowedly independent of that Authority they had been uſed to reſpect. In ſeveral of the Perſian Petitions delivered to him (as Provincial Chief) Mr. Peat was ſtiled the Naib, or Deputy of the Supreme Court; and the Term of Cutcherry was applied to his Houſe, as it would be to the Houſe of one exerciſing Authority—That he cannot ſpeak with Certainty whether the Governor General and Council were conſulted by the Judges, before Mr. Peat went to reſide at Dacca; but he remembers hearing, that the Governor General and Council had objected againſt any Europeans going into the Provinces without their Permiſſion, conformable to the eſtabliſhed Rules; but that the Judges aſſerted their Right to ſend Attornies into any Parts where their Juriſdiction extended—He ſaid, That the Seizure of Jaggernaut, whilſt he was acting as a public Officer of the Phouſdarry Court, had produced the greateſt Conſternation imaginable; that it was conſidered in general as a very violent and irregular Proceeding, and ſubverſive of the old-eſtabliſhed Government; and the Inſult offered to the Firſt Magiſtrate, was eſteemed ſo great, that the quiet Submiſſion of him and his People was rather a Matter of Surprize; and in its Effects, it entirely put a Stop to Criminal Juſtice, as no Man thought himſelf ſafe in exerciſing any judicial Authority.—And being further aſked, Whether he is not of Opinion, that the Juriſdiction of the Supreme Court, if limited to the European Servants of the Company, and their actual Agents and Perſons employed by them, would be greatly beneficial to the Country? he ſaid, He thought it abſolutely neceſſary that there ſhould be ſome Court veſted with conſiderable Powers to exerciſe Juriſdiction over Europeans; but it would be a Matter of very delicate Conſideration, how to render the Natives employed by Europeans, or by the Company, amenable to an Engliſh Court of Law.

And the Witneſs being further examined, as to the Circumſtances of Mr. Peat's Arrival at Dacca, and Practice there, informed Your Committee, That he has not often ſeen Mr. Peat; that he firſt ſaw him as Clerk to Mr. Juſtice Hyde, and ſhould gueſs him to be about Twenty Years of Age when he arrived at Dacca; that he was received with great Diſtinction on his Arrival, many Perſons having gone to the Boundaries of the Province to meet him, and Viſits having been paid to him by the Natives, and particularly by the Grandſons of the Nabob Jeſſarut Cawn, formerly Governor of the Dacca Province under Jaffier Ally Cawn; all which Compliments are not uſually paid to any but the Chief of the Council who preſided over that Province—That he has always heard Mr. Peat did not underſtand the Country Language, and is inclined to believe it, becauſe he employed a Clerk to interpret when Jaggernaut was ſent to him with Two Members of the Council.

And Your Committee thinking it right to enquire into the Age and Capacity of the Company's Servants who preſided in Rotation in the Dewannee Adaulut, or Provincial Court of Civil Juriſdiction, was informed by the Witneſs, That having held no other Station at Dacca than that of Provincial Chief, he never did preſide in the Dewannee Adaulut there; that the other Gentlemen of the Dacca Council, as well as himſelf, were rather of lower ſtanding in the Service than the Members of the other Councils; but in general thoſe of Dacca were from Seven to Ten Years ſtanding when firſt appointed—That he had held the Station near Three Years before Mr. Peat's arrival; that of thoſe who preſided by Rotation, he ſcarcely remembers an Inſtance of any Gentleman who did not underſtand the common Country Language ſufficiently to take an Evidence, and ſome were able to read the Perſian; but before he left the Country, the Plan of preſiding by Rotation at Dacca was altered, and the Superintendency of the Adaulut was conferred upon Mr. Evelyn, a Gentleman who from his

Knowledge of Country Languages, and general Experience, was perfectly well qualified to conduct that Buſineſs.

And it having been charged in certain printed Papers, purporting to be Letters from Mr. Peat, that during the Period abovementioned, Juſtice had been frequently and notoriouſly ſet up to Sale, to both the litigant Parties in a Suit, and the Profits of ſuch unjuſtifiable Tranſactions actually farmed out; Your Committee examined into Mr. Rouſe's Knowledge of the ſame—He replied, That he not only does not know of any ſuch Practice having exiſted during the whole Time he held the Chiefſhip of Dacca, but on his Conſcience believes, that ſuch a Suppoſition is totally falſe. Had there exiſted ſuch a Practice, he thinks it muſt neceſſarily have come to his Knowledge, and moſt probably would have been ſtated in the Petitions of Appeal, of which many are recorded in the Dacca Conſultations, without the Suppreſſion of any Circumſtance contained in them.

And Mr. William Hicky, who had practiſed as an Attorney in the Supreme Court, being alſo examined, informed Your Committee, That he was acquainted with Mr. Peat; that he firſt knew him in the Capacity of Clerk to Mr. Juſtice Hyde; and although Mr. Peat was practiſing as an Attorney at Dacca, his Bills as Judge's Clerk were regularly delivered to the different Attornies at Calcutta—That he ſuppoſes him to have been about Twenty-one Years of Age, and he had been then Three Years in the Country; but his Partner, Mr. Wroughton, was not above Sixteen at the Time of his Admiſſion as an Attorney of the Supreme Court.

And Your Committee, in their further Enquiry into the Proceedings on the Affair at Dacca, examined Captain John Cowe; who informed them, That he had ſerved about Twelve Years in the Military Line in Bengal, and that he was ſtationed at Dacca in the Year 1777—That he knew Mr. Peat, who reſided at Dacca, and acted as Attorney of the Supreme Court, and Deputy Sheriff—That he received Orders from the Chief and Provincial Council at Dacca, to put a Guard over Mr. Peat, which he obeyed; and the Reaſons he aſſigned for that Meaſure, were, from Mr. Peat's having ſhot a Man whoſe Life was deſpaired of by the public Surgeons.—And being aſked, Whether he received at that Time a Letter from any of the Judges of the Supreme Court, concerning Mr. Peat and his Confinement? he ſaid, He did receive One from Mr. Juſtice Hyde.—Then the Witneſs being ſhewn a Copy of a Letter from Mr. Juſtice Hyde to him, dated at Fort William the 23d of September 1777, printed in a Book called "Obſervations upon the Adminiſtration of Juſtice in "Bengal, &c." and hereinbefore ſet forth, he ſaid, That he believed it to be a true Copy of Mr. Juſtice Hyde's Letter to him.

And the Witneſs informed Your Committee, That he was at Dacca when Mr. Peat arrived there; upon which Occaſion he was attended by ſeveral of the principal People of the City, who waited upon him at his Landing, and accompanied him to his Houſe—That he believes ſimilar Diſtinctions are never paid to any Member of the Provincial Council, but only to the Chief—That he was attended by a great Retinue, having uſually Ten or Twelve Peons running before him when he went through the Streets: And he imputed the Diſtinction with which Mr. Peat was received by the Inhabitants of Dacca, to an Idea they had, that he was a Vakeel (or Agent) of Sir Elijah Impey, and would give them more ſubſtantial Juſtice than they had formerly been uſed to.—And being aſked, Whether there were any Complaints of the Want of ſubſtantial Juſtice before the Arrival of Mr. Peat? he ſaid, None that he ever heard of, excepting the Clamours of the Vakeels of the Zemindars and Landholders, who are often hired for that Purpoſe, to prolong the Time of Payment of their Rents; and he had Occaſion to obſerve, during his Reſidence at Dacca, that the People of that Country are more clamorous and litigious, than in any other Part of Bengal that he has ſeen; and he never did hear, that during any Part of the Time he reſided at Dacca, a Cuſtom prevailed of farming out the Profits of the Dewannee Adaulut.

And being examined, as to the Effect which the Seizure of Jaggernaut, the Dewan of the Phouſdarry Court, and the Fray which thereupon enſued, produced on the Minds of the Inhabitants of Dacca? he ſaid, That they ſeemed to regard it with Wonder and Aſtoniſhment; and many of them were ſurprized that a Party of Sepoys was not ſent by the Phouſdar, or by Government, to revenge the Inſult on Mr. Peat's Perſon: And Mr. Peat himſelf was ſo much under Apprehenſion for his perſonal Safety, that he applied to the Witneſs for a Party of Sepoys to protect him from any Attempt of the Natives.

The Witneſs ſaid, He knew Syed Ally Cawn, the Phouſdar or Chief Criminal Magiſtrate, very well; and his general Character was very reſpectable.—And finally being aſked, Whether during the Time he reſided at Dacca, he heard the People of that Province expreſs Content or Diſcontent of the Mode in which Juſtice was adminiſtered in the ſeveral Branches? he replied, That they ſeemed in general much ſatisfied; and he never heard any Diſcontent at the Adminiſtration of Juſtice.

Your Committee are now to report the Cauſe of Coſſinaut Baboo, againſt the Rajah of Coſſijurah; which affords the firſt Inſtance of open Reſiſtance ſhewn to the Proceſs of the Court, by the Governor General and Council; this they juſtify upon the Plea of State Neceſſity; and they appear before this

Houſe, praying an Indemnity for an Oppoſition, which, if not ſtrictly legal, they conſider as juſtifiable upon the Neceſſity of the Circumſtances.

Your Committee find, that Coſſinaut Baboo is a principal Merchant at Calcutta, and a Man of conſiderable Rank, nearly allied to the Rajah Soondernarain, Zemindar of the Pergunnahs of Coſſijurah and Shâpore, which form Part of the Diſtrict of Midnapore, in the Province of Oriſſa, for whom he had been Security for the Rents payable to Government, and Manager of all Affairs relative to the Zemindary, during almoſt Five Years.

In conſequence of this Situation, ſeveral Accounts and croſs Claims between him and Government on the one Hand, and between him and the Rajah and the Tenants on the other, had been in Diſcuſſion before the Chief of Burdwan: This Officer's Report to the Governor General and Council, on theſe Accounts and Claims, was unfavourable to Coſſinaut Baboo; and Proceſs was accordingly ordered by the Board, for the Recovery of the Balances due to Government againſt Coſſinaut, who was arreſted and confined, with Circumſtances (as he complained) of very great Hardſhip.—To be relieved from his Confinement, he applied for and obtained a Writ of Habeas Corpus from the Supreme Court. The Return to the Writ appearing to be eſſentially defective, Time was given, by Conſent of Parties, for making one more regular and legal; Coſſinaut, under the ſame Conſent, was in Effect ſet at Liberty, though not in virtue of the Writ; his Counſel engaging to Government for his Appearance at the Day appointed for making the Return. In this Interval, upon a very reſpectful Petition being delivered to the Governor and Council from Coſſinaut Baboo, offering to depoſit the Balance demanded, to await the final Judgment of the Governor General and Council, and requeſting a further and more exact Examination of Accounts, the Parties agreed to ſuſpend all further coercive Proceedings on either Side, Coſſinaut Baboo actually depoſiting the Sum in Diſpute, and the Governor and Council engaging for the fair and full Inveſtigation demanded in the Petition. Coſſijurah Appendix, N° 1.

This Tranſaction was concluded on the 17th Day of June 1777. Two Years elapſed without any Settlement of the Account to the Satisfaction of Coſſinaut, the principal Officer ſtill making a Report unfavourable to his Pretenſions; and on the 25th of May 1779, Coſſinaut preſented to the Governor General and Council, a Petition, requeſting a ſpeedy Deciſion of the Matter in Diſpute—The Buſineſs was thereupon referred by the Governor General and Council, to the Superintendant of the Khalſa Records, to be by him examined, and a Report made thereupon to the Governor General and Council, for their Deciſion.

On the 28th of the ſame Month, this Report was accordingly made by the Superintendant, accompanied with Two Abſtracts of the Account Current between the Parties. This Mode of adjuſting the Accounts was objected to by Coſſinaut; and the Matter was actually under Examination (Coſſijurah Appendix, N° 2.) when Coſſinaut; upon the 13th of Auguſt 1779, commenced a Suit againſt the Rajah of Coſſijurah, in the Supreme Court.

It appears to Your Committee, That Mr. Juſtice Hyde, upon reading the Affidavit of Coſſinaut, immediately gave a Written Order that a Capias ſhould iſſue againſt the ſaid Rajah; and that a Clauſe ſhould be inſerted in the ſame, authorizing the Sheriff to take Bail in the Sum of Three hundred thouſand Sicca Rupees (about Thirty-five thouſand Pounds ſterling.) Coſſijurah Appendix, N° 3.

Notice of this Proceſs was given to the Governor General and Council, in a Letter from Mr. Pearce, dated Midnapore, September the 4th 1779; in which he alſo mentions that the Writ had been ſent into the Pergunnah, with a Sheriff's Officer, to be ſerved upon the Zemindar; and that in conſequence thereof, the Zemindar had been obliged to conceal himſelf, and was thereby prevented from following the Duties of his Station, and exerting himſelf in fulfilling his Engagements to the Company by the Payment of his Revenues. Coſſijurah Appendix, N° 4.

Upon the Receipt of this Letter, the Governor General and Council ordered, That the Opinion of the Advocate General ſhould be taken; and that Mr. Pearce and the Zemindar ſhould have Notice to act upon the Occaſion, according to the Inſtructions they ſhould receive from the Advocate General.

The Opinion of the Advocate General was accordingly laid before the Board on the 19th of October: He adviſes, “ That in the Caſe now referred to him, the Zemindar have Notice, that not being “ ſubject to the Juriſdiction, he ſhall not appear, or plead, or do or ſuffer any Act which may amount, “ on his Part, to a Recognition of the Authority of the Judicature, as extending to himſelf.” He likewiſe adviſes, “ That in all ſimilar Caſes, as well as in the preſent, the Power of Government ſhall “ not, if called upon, be employed in Aid of the Judicature; but that they be left to their own Means “ of executing their Proceſs, and thus render themſelves alone reſponſible, ſhould ſuch be the Event, “ for having unneceſſarily hazarded the Dignity and Authority of the King's Judicature, by expoſing “ its Proceſs to Contempt, and its Officers to Reſiſtance and Repulſe.”—For the Motives upon which this Advice is grounded, Your Committee beg Leave to refer to the Advocate General's Report, inſerted at large in the Coſſijurah Appendix, N° 5.

In conſequence of this Opinion of the Advocate General, a Letter was ſent by the Governor General and Council to Mr. Pearce; in which he was directed to give Notice to the Zemindar, that, not being ſubject to the Juriſdiction of the Supreme Court, he ſhould not appear, or plead, or do or ſuffer any Act which might amount on his Part to a Recognition of the Authority of the Judicature, as extending to himſelf. Mr. Pearce was likewiſe directed, that if in conſequence of any Reſiſtance offered to the Sheriff's Officer, Application ſhould be made to him by the Sheriff's Officer, for Military Aſſiſtance, he ſhould not grant ſuch Aſſiſtance, either in this, or in any other Inſtance, but ſhould report the Circumſtances of the Caſe to them (the Governor General and Council) and wait their Orders.

It appears to Your Committee, That on the 30th of November 1779, the Governor General and Council had Notice, as well by a Letter from Mr. Naylor, the Company's Attorney, as by the perſonal Examination of the ſaid Mr. Naylor, that the Writ of Capias, iſſued by the Supreme Court againſt the Rajah of Coſſijurah, having been returned as unexecuted, in conſequence of the Rajah's having concealed himſelf, it had been followed by another Writ, to ſequeſter the Lands and Effects of the ſaid Rajah, in order to compel his perſonal Appearance; and that, to enforce the Execution of this laſt Writ, the Sheriff had diſpatched to Coſſijurah an armed Force, conſiſting of Sixty Perſons, as well European Sailors, as Peons and Sepoys, armed, as appears to Mr. Naylor, by Coſſinaut himſelf, and inſtructed to uſe their Force, in caſe any Reſiſtance ſhould be made to the Execution of the Writ. It was thereupon reſolved in Council, that a Letter ſhould be written, and immediately diſpatched, to Lieutenant Colonel Ahmuty, commanding the Cantonments near Midnapore, informing him of the above Particulars, and requiring him, for the Preſervation of the Peace and Tranquility of the Country, immediately on the Receipt of their Letter, to detach a ſufficient Force from the Battalions under his Command, to intercept and apprehend any Body or Bodies of Men anſwering this Deſcription, within the Diſtricts of Midnapore and Jellaſore, and to detain them in his Cuſtody till he ſhould have made his Report to the Board, and have received their further Orders. Coſſijurah Appendix, N° 6.

Your Committee find, That on the 3d of December, a Letter from Mr. Naylor, the Company's Attorney, to Mr. Haſtings, accompanying a Repreſentation from the Rajah of Coſſijurah, was laid before the Board by the Governor General; ſtating, that a Party of Men, headed by a Serjeant of the Court, and Gocul, a Servant of Coſſinaut, the Plaintiff in the Cauſe, entered the Houſe of the Rajah, in order to ſet their Seal upon it, and endeavoured to enter the Zenana, or Women's Apartment; and that, upon an Oppoſition made by the Rajah's Servants to their Attempt, ſeveral of them were beat and wounded—That upon a Reinforcement arriving from the Sheriff, the Rajah directed that his Servants ſhould make no further Reſiſtance—That upon this, the Serjeant, at the Inſtance of the ſaid Gocul, bound and beat certain of his Servants, upon which the reſt abſconded—That the Party then broke open and forcibly entered his Houſe and Zenana, and plundered his Effects—That other Perſons arriving in the Morning, ſeized ſome of his Servants, beat and ill-treated others, ſequeſtered the Remainder of his Effects, committed Outrages upon his Place of religious Worſhip, and ſtript it of its Ornaments; and that by this Means a Stop was put to the Collection, and the Farmers prohibited by Gocul from paying their Rents. A Letter from Mr. Pearce to the Governor General and Council, was likewiſe read; deſiring the Directions of Government how to proceed, in conſequence of a Letter he had received from the Sheriff, demanding his Aſſiſtance in the Execution of the Writ, and founding that Demand upon a Clauſe of the Charter, which he tranſmitted in his Letter. Coſſijurah Appendix, N° 7.—It appears, by a Letter from the Chief Juſtice to Lord Weymouth, dated the 3d of March 1780, that this Letter was written by the Sheriff, in conſequence of an Order from the Chief Juſtice.

Your Committee obſerve, That the Board called on the Advocate General for his Opinion as to the Meaſures they ſhould adopt upon this Occaſion: The Advocate General obſerved, That ſince his former Opinion, the Queſtion had ſo far changed its Aſpect, as to be a Queſtion of Government and political Neceſſity, not of Law; he therefore deſired, that if it was expected that he ſhould give an Opinion upon this Subject, it might not be a ſudden one. To this the Board aſſented.

Your Committee obſerve, That they directed Mr. Jonathan Duncan, One of the Civil Servants of the Company, immediately to proceed to Coſſijurah, and there to take the Depoſitions of all the Perſons preſent at the late Diſturbances. The Rajah was ordered to afford Mr. Duncan all poſſible Aſſiſtance on his Part, and to cauſe the Witneſſes, whoſe Depoſitions he might take, to return with him to the Preſidency; a Letter was alſo written to Colonel Ahmuty, directing him to ſend to the Preſidency any Perſon he might have apprehended in conſequence of their former Order of the 30th of November.

It appears to Your Committee, That in Obedience to the Orders received from the Governor General and Council, Lieutenant Colonel Ahmuty detached from the Camp at Midnapore, Two Companies of Sepoys, under the Command of Lieutenant Bomford; who, on the Morning of the 3d of December, ſeized the Sheriff's Officers, and thoſe acting under them, at Coſſijurah, amounting to Thirty Sepoys, about Twenty Peons, and Eight Europeans. In the Afternoon of the ſame Day, they ſeized Six more Europeans, with Gocul Sircar, the Gomaſtah of Coſſinaut, who had been (under the Authority of ſeparate Warrants of Sequeſtration) to execute the Writ at Rajee Bulpoor, where the Rajah of Coſſijurah has his principal Reſidence. Coſſijurah Appendix, Nº 8.

Your Committee find, That the Governor General and Council, on the 17th of December, made the following Notification to all the Zemindars and Landholders of the Provinces:

Be it known to all Zemindars, Chowdries, and Talookdars, in the Provinces or Subahs of Bengal, Bahar, and Oriſſa:

Whereas, Repreſentations have been received from many of the Zemindars, Chowdries, and Talookdars of theſe Provinces, by the Governor General and Supreme Council at Fort William, that Summonſes, Warrants, and other Proceſs of the Supreme Court of Judicature at Calcutta, have been ſerved upon them by the Sheriff's Officers, requiring or compelling them to appear before the Judges of the ſaid Supreme Court, and give in Anſwers to Complaints or Suits inſtituted againſt them; Notice is hereby given to the Zemindars, Chowdries, and Talookdars of the Provinces aforeſaid, "That, not "being ſubject to the Juriſdiction of the Supreme Court (except in the Caſes which will be hereafter "ſpecified) they ſhall not (in caſe of any Summons, Warrant, or other Proceſs of the ſaid Supreme "Court, being ſerved upon them by the Sheriff, or his Officers) appear nor plead, nor do nor ſuffer "any Act which may amount, on their Part, to a Recognition of the Authority of the Judicature, "as extending to themſelves."

In Caſes where the Zemindars, Chowdries, and Talookdars, are, in common with all the Inhabitants of theſe Provinces, ſubject to the Juriſdiction of the Supreme Court, and muſt pay Obedience to its Proceſs, are as follows:

"Where the Parties ſued ſhall, at the Time when the Debt or Cauſe of Action ſhall have ariſen, "have been employed by, or ſhall have been directly or indirectly in the Service of, the Company, "or of any of His Majeſty's Subjects:" Or

"Where the Party ſued ſhall have entered into any Contract or Agreement in Writing with any "of His Majeſty's Subjects, and the Cauſe of Action ſhall exceed the Sum of Five hundred Current Rupees; and where the Party ſhall have agreed in the ſaid Contract, that in caſe of Diſpute, "the Matter ſhall be heard and determined in the ſaid Supreme Court."

And Your Committee obſerve, That this Notification was ſent to all the Provincial Councils and Collectors of the Provinces, with Directions to publiſh it in their reſpective Diſtricts; the Governor General and Council further ordered, That if, in conſequence of any Reſiſtance offered by Perſons in the above Characters, to the Execution of the Proceſs of the Supreme Court, any Application ſhould be made to the Provincial Chiefs for Military Aſſiſtance, they were not to grant ſuch Military Aſſiſtance, but to report the Circumſtances to the Governor General and Council, and to wait their Orders.

Your Committee find, from the Proceedings of the Governor General and Council, in their Revenue Department, dated the 7th of December 1779, That the Advocate General gave it as his Opinion, for Reaſons which will be found in the Coſſijurah Appendix, Nº 9, that the Reſiſtance ſhewn to the Proceſs of the Court was unavoidable; but however, unleſs Circumſtances ſhould appear of very flagrant Guilt in the Parties employed in the Execution of the Writ, he adviſed that the Priſoners ſhould be releaſed.

The Depoſitions taken by Mr. Duncan were on the ſame Day laid before the Board.

And Your Committee find, That the Governor General and Council ordered the Priſoners, then arrived at Calcutta, to be releaſed; and intimated to the Rajah, that having had Notice that the Seals affixed by the Sheriff's Officers to his Houſes and Effects ſtill remained thereon, it reſted entirely with him (the Rajah) either to ſuffer the Seals to remain, or himſelf to remove them.

The Governor General and Council likewiſe wrote a Letter to Lieutenant Colonel Ahmuty, ordering him, in caſe any Attempt ſhould be made on the Part of the Supreme Court, to ſerve any Writ upon himſelf, Lieutenant Bomford, or any Officer or Sepoy belonging to the Detachment employed to oppoſe the Execution of the Writ, for any act done in Conſequence of their Orders of the 30th of November; that he ſhould reſiſt ſuch an Attempt, and counſel the Perſon executing it, to depart the Limits of his Command. Coſſijurah Appendix, Nº 10.

It appears to Your Committee, That on the 18th of January, an Attachment was moved for in the Supreme Court, againſt Mr. William Swainſton, Aſſiſtant at Midnapore, and Lieutenant Bomford, for a high Contempt of Court, in the Part they took in the Reſcue of the Houſes, Lands, and Effects of the Rajah of Coſſijurah, and of the ſubſequent conducting of the Priſoners under a ſtrong Guard to Calcutta.

It was alſo moved, That Rules might be made againſt Warren Haſtings and Richard Barwell, Eſquires, and Mr. North Naylor, to anſwer certain Affidavits of the Sheriff's Officers, and others; inſerted in the Coſſijurah Appendix, N° 11 to 17.

Your Committee find, That the Chief Juſtice refuſed to grant an Attachment in the firſt Inſtance, but ordered, "That there ſhould be a Rule to ſhew Cauſe, why an Attachment ſhould "not iſſue againſt Mr. Swainſton and Lieutenant Bomford, and Mr. Naylor.

"The Chief Juſtice further obſerves, That as to the Governor General and Mr. Barwell, he "will not include them in the Rule, becauſe he will not grant a Rule the Court cannot enforce; "and they are determined to enforce their Rule to the utmoſt of their Power;—they ſhould be "ſerved with Copies of the Rule, that they may anſwer if they pleaſe.—That the Sheriff do apply "to the Governor General and Council, and to each of the Council General ſeparately, for Aſſiſt-"ance in executing the Rules."

In conſequence of this Order, the Sheriff of Calcutta wrote a Letter to the Governor General and Council, requiring him, under the Authority of a Clauſe in the Charter, to be aiding and aſſiſting in the Service of the Rules of the Supreme Court, on William Swainſton, Stephen Bomford, and North Naylor; which Letter was referred by the Governor General and Council to the Advocate General.

It appears to Your Committee, That on the 30th of January 1780, the Advocate General repreſented to the Board, That his former Advice had not extended to any Thing beyond Neutrality on the Part of the Governor General and Council; but acquieſces in the Neceſſity by which they had been driven openly to reſiſt the Proceſs of the Court.

In conſequence of this Opinion, the Board reſolved, on the 30th of January, "To abide by the "Principles on which they had already proceeded in their Reſiſtance of (what they term) the il-"legal Acts of the Supreme Court of Judicature; and that they will enforce and defend the Or-"ders made upon theſe Principles."—Coſſijurah Appendix, N° 18.

It further appears to Your Committee, That on the 24th of January, an Attempt was made by Findlay, the Sheriff's Officer, to enter the Lines at Midnapore, for the Purpoſe of ſerving the Rule of Court upon Swainſton and Lieutenant Bomford; Guards had however been previouſly ſtationed by Lieutenant Colonel Ahmuty, in Conformity to the Orders of the Governor General and Council, for the Purpoſe of preventing the Service of the ſaid Rule upon Lieutenant Bomford.—And Lieutenant Colonel Ahmuty informed the ſaid Findlay, that Swainſton was not under his Command, and that he ſhould not permit him to enter the Camp, without an Order from the Governor General and Council, if he came there upon the Coſſijurah Buſineſs.

It apppears, that in conſequence of this Tranſaction, the Sheriff, by Order of the Supreme Court, ſent a Letter to the Governor General and Council, ſerving Mr. Haſtings, Mr. Barwell, Mr. Francis, and Mr. Wheler, individually, and collectively as Governor General and Council, by Means of their public Secretary, with a Copy of the Rule againſt Lieutenant Bomford, and likewiſe with a Copy of the laſt Clauſe of the Charter, by which all Perſons, civil and military, are required to be aiding and aſſiſting to the Supreme Court; (Coſſijurah Appendix, N° 19.) and the Board ordered that theſe Papers ſhould be referred to their Advocate General, and that he ſhould thereupon adviſe, whether any, and what Anſwer ſhould be given; and likewiſe that a Copy of the Clauſes of the Act of the Thirteenth of His preſent Majeſty, and of the Charter of Juſtice, ſhould be delivered to the Advocate General, and that he ſhould be deſired to inform the Board, whether the Supreme Court could receive Suit, or iſſue Proceſs againſt the Governor General and Council, ſeparately or individually, for Acts done in their collective and corporate Capacity, or whether ſuch Proceſs ſhould not be directed to their Attorney?

The Advocate General, in a Report read before the Board on the 25th of February, ſtates it as his Opinion, That no Anſwer ſhould be given to the Requiſition of the Sheriff; and urges, that though the Statute and Charter of Juſtice exempt the Governor General and Members of the Supreme Court from Arreſts, in Acts, Suit, or Proceeding, and from Trial for Offences ſhort of Felony or Treaſon, he thinks them nevertheleſs clearly amenable to the Juſtice of the Court in any civil Proceeding, of which they may be individually Objects.—He apprehends, however, their Subjection to the Juriſdiction of the Court, to be, in Law and Common Senſe, reſtrained to their Acts in their private Capacity. Coſſijurah Appendix, N° 20.

It appears to Your Committee, That on the 22d of February 1780, Mr. North Naylor, the Company's Attorney, in a Letter to the Governor General and Council, lays before the Board a Minute of the Proceedings of the Supreme Court upon the Rule by which he was ordered to anſwer certain Affidavits alledging Contempt.—He complains of the Delay of Juſtice on the Part of the Court, by poſtponing their Determination; and conceives their Proceedings to be rather a deliberate and concerted Meaſure to degrade the Dignity of Government, than as having for their Object ſo inconſiderable a Sacrifice as himſelf.—He further complains of the Inſufficiency of the Facts alledged in the Affidavit, of the weak and incompetent Evidence of thoſe Facts, and of the unuſual Precipitancy of the original Proceeding.—He conceives the Rajah of Coſſijurah to be ſtrictly his Client.—States himſelf as almoſt induced to believe the Motives of the Supreme Court to be the extorting from him the Secrets of his Employers, the Governor General and Council; and aſſures them of his Determination to the Silence he conſiders himſelf as in Duty bound to maintain, whatever may be the Reſult.—He ſtates, that the Intimation given in Court by the Chief Juſtice, that Coſſinaut has his Remedy againſt the Members of Government, would alone juſtify his Silence. Coſſijurah Appendix, N° 21.

Your Committee find, That on the 1ſt of March 1780, Mr. North Naylor, the Attorney of the Eaſt India Company, was committed to the Common Gaol of Calcutta, by the Supreme Court, for Contempt.

Your Committee find, That on the 3d of March, the Governor General and Council were ſeverally ſerved with a Summons from the Supreme Court of Judicature, to anſwer to Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe; and that although from the Summons it did not appear what the Ground of Action was, yet the Name of the Plaintiff left the Council General no Room for Doubt; they accordingly directed, that Counſel ſhould plead in each Action to the Juriſdiction, taking for the Ground of ſuch Plea, the Exemption of the Members of that Government from the Juriſdiction of the Supreme Court upon any Suit to be preferred individually againſt them, for their Concurrence in Acts of Government. The Governor General and Council add further, that if upon that Plea Judgment ſhould go againſt them, they had directed the Cauſe to be appealed. Coſſijurah Appendix, N° 22.

Your Committee obſerve a Letter from Mr. North Naylor, dated Calcutta Gaol, 9th of March, to the Governor General and Council; tranſmitting a Copy of Twenty Interrogatories, which he was called upon to anſwer in the criminal Proſecution then pending againſt him. In this Letter, Mr. Naylor, after ſtating the Conſequences of being obliged to anſwer ſuch Interrogatories, declares his Intentions to conform to ſuch Directions as the Board ſhall ſuggeſt.

The Governor General and Council, having duly weighed this Letter, are deciſive in Opinion, that, taking the Queſtion on public Ground, it is their Duty to forbid his anſwering theſe Interrogatories; and that unleſs they conſented, Mr. Naylor could not anſwer them without a Breach of Duty and Confidence, as their official Servant; but in Conſideration of the Caſe, as it perſonally reſpected himſelf, they find themſelves reſtrained by the Apprehenſion that a long Impriſonment in Calcutta Gaol would be fatal to Mr. Naylor, and therefore, to prevent his becoming the Victim of their Rights, they inſiſt and direct, that he do anſwer to the Interrogatories, having firſt entered his Exceptions againſt ſuch Parts of them as he ſhall judge it improper in him to reveal, or illegal in the Court to put to him.

Your Committee have thought it fitting to inſert the Board's Minute upon Mr. Naylor's Letter at large, in the Coſſijurah Appendix, No. 23.

Your Committee find the following Letter, dated the 5th of March 1780, from Lieutenant Colonel Ahmuty, was ſent to the Governor General and Council, and by them entered in their Proceedings of the 9th of March 1780:

"Honourable Sir, and Gentlemen,

"I take the Liberty to acquaint you, that I have prevented Findlay the Conſtable from coming "to Camp by the Means of various Diſguiſes, and alſo from conveying Letters to me under different "Pretences; informing him I knew no one, nor was ſubordinate to any but the Governor and Council; "and recommended to him to take Care not to force the Sentries, as I did not want to hurt him; "but if he was ſo imprudent, he muſt ſuffer the Conſequences, and blame himſelf. He did re"ceive ſeveral Letters by his own Hircarrahs from Calcutta, and was Twice there, and returned.

"On the 2d Inſtant, a Jemadar and Twelve Peons arrived in the Neighbourhood from the Court, "the ſame who were at Coſſijurah, and it is reported Four Conſtables are alſo lurking about; I am "credibly informed they have a Letter directed to Lieutenant Bomford, with the Court Seal on it; "I believe by their Motions they are endeavouring to take him by Force, becauſe Three or Four "were ſeen laſt Night lurking in the Camp, but on diſpatching a Guard to ſeize them, they ſoon "diſappeared. This has made me more vigilant; and this Morning I have given Notice, by Beat of "Tom Tom, to prevent any one in Camp from ſheltering thoſe Fellows, and offering a Reward to "any Perſon who will apprehend any of them within the Sentries.

"I hope, Gentlemen, this will meet with your Approbation. I beg Leave to remind your Ho"nourable Board, that this Detachment is now under Orders to march for Burrumpore, and to ac"quaint you, that my Power ceaſes on our Junction with the Brigade; and therefore requeſt you

“ will pleaſe to take ſuch Steps as will prevent the Malignity of the Court from falling on me and “ Lieutenant Bomford.”

Your Committee obſerve, That when the Governor General and Council found that the Suit inſtituted againſt them by Coſſinaut was for Acts done by them in their collective Capacity of Governor General and Council, they directed the Appearance to the Action, which had before been made, to be withdrawn.

The Governor General and Council deny, that their corporate Acts, as the Government of that Preſidency, or done in the Execution of the Powers veſted in them by Parliament, are cognizable in the Supreme Court of Judicature, or that they are anſwerable, as Individuals, in that Court, for the Conſequences of ſuch Acts. In Obedience to their Inſtructions, the Company's Counſel delivered in a Declaration to the Supreme Court to this Effect; ſtating, That they would not ſubmit to any Rule, Proceſs, or Judgment, or other Act whatſoever, of the Supreme Court, in that Action, or in any other Action of the ſame Nature, by which it may be attempted to make them anſwerable in the Supreme Court, as Individuals, for the corporate Acts of the Governor General and Council, not cognizable by the Supreme Court. But as this Declaration of the Governor General and Council contains Matter worthy of the Attention of the Houſe, Your Committee have annexed the Declaration at large, in the Coſſijurah Appendix, N° 24.

Your Committee find, in a Letter of the 14th of March, from the Governor General and Council to the Court of Directors, that the Judges of the Supreme Court have delivered ſeparate and long Opinions on the Contents and Nature of the Declaration; and unanimouſly concurred in their Opinions, that there were no Grounds to ſtay the Proceedings in the Cauſe. Your Committee think proper to remark, that it appears by the ſaid Letter of the 14th of March, that theſe Opinions had not been delivered to the Governor General and Council, and they are not to be found on the Company's Records, nor have ſuch Opinions been ſubmitted to their Conſideration; excepting that of Chief Juſtice Impey, in his Letter to Lord Weymouth, 12 March 1780, inſerted in the Coſſijurah Appendix, N° 25.

It appears to Your Committee, by the Letter from Sir Elijah Impey to Lord Weymouth, of the 12th of March, 1780, that Mr. Barwell, one of the Council General, diſapproved of the Intention of the Governor General and Council, not to appear to the Action, and left Inſtructions to his Attorney, in Caſe the other Defendants did not appear and plead, to put in an Appearance and Plea for him.

Your Committee finding that Mr. Barwell had concurred in Opinion with the Council General in their Oppoſition to the Juriſdiction of the Supreme Court, thought proper to examine him; and find from his Evidence, that he had left ſuch Orders with his Attorney in Bengal.

Your Committee find, that Coſſinaut had, on the 11th of March 1780, ſuddenly ordered his Attorney to diſcontinue his Action againſt the Governor General and Council, and alſo his Action againſt the Rajah of Coſſijurah. — For the Chief Juſtice's Reaſonings upon theſe Events, Your Committee refer to the Letter in the Appendix.

Your Committee obſerve, in a Letter from the Chief Juſtice, Sir Elijah Impey, to Lord Weymouth, His Majeſty's Secretary of State for the Southern Department, of the 2d of March 1780, he writes, “ That but One Term has intervened ſince theſe Diſputes, and the Buſineſs of the Court, “ as I eſtimate, has fallen off near One Third; and in a Term or two, when the Cauſes already “ commenced are got rid of, I expect it will be reduced to the Trial of a few Cauſes ariſing in “ Calcutta; to which Place the Natives are taught to underſtand the Functions of the Court have “ been confined by the Authority of the Governor General and Council. The Advocates, Attornies, “ and Officers of the Court, who have not already ſucceeded, will be reduced to a moſt deplorable “ Situation. The Attornies have petitioned us, that on Account of the Difficulty of their pro- “ curing Subſiſtence in the preſent State of Things, that their Number may not be increaſed by new “ Admiſſions, though Perſons may come from England ſo qualified; and recommended, that we “ may not be able to comply with this Requiſition; yet I really apprehend we ſhall do them little “ Service by admitting them; for it ſeems to me, it will be only to give them the Privilege of ſtarving “ in Company with the preſent Attornies.” Which ſaid Petition or Addreſs, as it is ſtyled, is hereunto annexed in the Coſſijurah Appendix, N° 26 and 27.

Your Committee obſerve, in a Letter of the 16th of March 1780, from the Secretary of the Council General in Bengal, to Mr. Mitchell, Secretary to the Eaſt India Company, that Mr. North Naylor, the Company's Attorney in Bengal, was releaſed from his Confinement on Bail.

Your Committee thought proper to examine Richard Barwell, Eſquire, upon this Subject; who informed Your Committee, That he had reſided in India 23 Years; Ten of which he had been of the Council of Bengal; and when he left that Country, was of the Council General, and next in Rank to the Governor General; and that he left Bengal on the 10th of March 1780.—Your Committee not obſerving Mr. Barwell's Name to the Petition from the Governor and Council General to this Honourable Houſe; and being aſked, If he had any Reaſons for not ſigning it? ſaid, He never ſaw the Petition in India, previous to its being drawn; and as he had determined to quit his Station, from the Moment he had communicated his Reſolution he did not attend the Council.—Being aſked, When he communicated that Reſolution? he ſaid, The Inſtant he underſtood the Meaſures of Government were likely to be conducted with ſome Degree of Cordiality and Confidence amongſt the different Members—That the State of Parties, he thought, required the Gentlemen to contract ſome Habits of doing Buſineſs together, before he could with Propriety leave the Governor General—and that it was neceſſary that the Governor General ſhould be ſatiſfied with the Conduct of his Colleagues, to juſtify Mr. Barwell in leaving his Station—That he communicated his Reſolution to the Court of Directors, through the Board, at the End of February; and that he declared it to the Members of the Council, individually, in January; from which Time he declined to attend the Board.—Being aſked, At what Time in January? he ſaid, It muſt have been at the very End of January, or Beginning of February.—And being aſked, If the Meaſure of preſenting a Petition to Parliament, on the Diſputes betwixt the Governor General and Council and the Judges, had been agitated in Council before the End of January 1780? he ſaid, That he did not know that ſuch a Propoſal had been agitated in Council; but recollected a great deal of Converſation about it, but that nothing was ever ſeriouſly brought before the Council.—And being aſked, Whether that Meaſure was agitated in Council before he left Bengal? he anſwered, That to the beſt of his Recollection it was not.—And being aſked, Whether any Communication had been made to the Judges, of the Petition of the Britiſh Inhabitants of Bengal? he ſaid, He did not know of any Communication; he believes there was none. —And being aſked, Whether it was intentionally withheld from them? anſwered, That he believes it was; he did not ſee it himſelf, nor any of the other Papers that may relate to it.

Your Committee aſked Mr. Barwell, If any Action had been brought againſt him in the Supreme Court, in conſequence of any Proceedings of the Governor General and Council, in the Cauſe of Coſſinaut Baboo againſt the Zemindar of Coſſijurah? he ſaid, There was an Action—The Proceſs of the Court, he thinks, did not expreſs the Cauſe of Action to be what was ſtated in the Queſtion; it was, to the beſt of his Remembrance, at the Suit of Coſſinaut Baboo.—Being aſked, If he entered any Appearance to that Action? he ſaid, He did; and at the very Time, independent of the other Members of the Council.—And being aſked, If the other Members of the Council entered an Appearance to any ſuch Action brought againſt them? he ſaid, They did, and ordered the Company's Attorney at Record to put in an Appearance for them; and that he was not preſent at the Meeting of Council when this Order was iſſued.—And being aſked, If he withdrew his Appearance? ſaid, He did not.—And being aſked, If the other Members of the Council withdrew theirs? ſaid, He did not know, further than what he had heard ſince his Arrival in England.—And being aſked, If he knew upon what Principle the other Members of the Council entered their Appearance? ſaid, That he underſtood they entered Appearance as Individuals.—And being aſked, If he left an Order not to withdraw his Appearance? ſaid, That he ordered his Appearance not to be withdrawn.—And being aſked, Upon what Principle he left ſuch Orders? he ſaid, Becauſe he eſteemed himſelf ſubject to the Juriſdiction of the Court, and might have his Redreſs by Appeal.—And being aſked, If he underſtood it to be in Contemplation with the other Members of the Council to withdraw their Appearance, if Declarations ſhould be againſt them in their public Character? ſaid, He did underſtand it was in Contemplation, and which was the Reaſon of the Inſtructions he gave to his Attorney.—And being aſked, If he conſidered himſelf as ſubject to the Juriſdiction of the Supreme Court, as an Individual, for all Acts done by him in his public Capacity, as one of the Council General? ſaid, He did; and that he knew of no Exemption in the regulating Act of the 13th George III.

Your Committee examined Mr. Barwell, Whether he agreed in the Order ſent to Mr. Pearce, Collector of Midnapore, not to comply with any Application that might be made to him, by any Sheriff's Officer, for Military Aſſiſtance? he ſaid, That he concurred with the Council in giving Effect to the Opinion of the Company's Advocate General, which declared the Law not to operate upon a certain Deſcription of Men—The Order grounded on that Opinion he agreed to.—Being aſked, If he agreed to all the other Acts of the Board founded upon that Principle? ſaid, He did; and that the Council did not move a Step without Law Advice.—And being aſked, Whether he entered any Proteſt or Diſſent, in Conſultation on that Buſineſs? ſaid, He did not; that when Sir John Day, the Advocate General, firſt advanced the Opinion that influenced the Council to the Meaſures that were adopted, his own private Sentiments were over-ruled—The Example brought in Inſtance of the Juriſdiction of the Court, not affecting the Zemindars of Bengal, was an Attempt of the Mayor's Court of Fort St. George, to arreſt either the Nabob of Arcot, or ſome of his Officers; and an Opinion which Sir John Day had given, that "That Act ſhould be reſiſted by the Nabob or "his Officers, and that it had been reſiſted, and that the Court had no Power to enforce its Proceſs." The Advocate General deduced, that the ſame Independency was in the Zemindars of Bengal; and that they might and ought to reſiſt the Proceſs of the Court.—Your Committee then aſked Mr. Barwell, If that Inſtance, being Part of the Advocate General's Opinion, was on Record? he ſaid, He thought not.—He was aſked, If his Opinion was over-ruled by the Opinions of the other Members of the Board, or by that of the Advocate General? he ſaid, The Queſtion was a Point of Law; the Directors of the Eaſt India Company had ſent out this Gentleman expreſsly to interpret the Law to the Governor General and Council.—He was then aſked, If the Opinion given by the Advocate General, treated the Subject as depending ſolely on the Points of Law, or in Part of State Neceſſity? he ſaid, It took up both Grounds; the Advocate General's Department, as he explained it to us himſelf, was to defend the Rights of the Company and Government.—Mr. Barwell added, That it was once in Contemplation to admit the Advocate General to a Seat at the Council Board with the Council General, ſo high was the important Truſt ſuppoſed to be with which he was veſted.—And being aſked, If the Governor General and Council conceived themſelves obliged to conſult the Advocate General, in Points of Policy or State Neceſſity, not depending on Points of Law? ſaid, That he ſhould apprehend not.—And being aſked, If the Advocate General gave it as his Opinion, that the Governor General and Council were warranted in their Proceedings in the Coſſijurah Caſe, by Law, independent of State Neceſſity? he ſaid, That he did not recollect that any of the Opinions of the Advocate General's, at leaſt thoſe delivered whilſt he ſat at the Council Board, go at all to the State Neceſſity—He recollects, that the Detriment which would accrue to the Revenues, was ſtated to him, and indeed, the moſt minute Circumſtances that had come before the Government, to enable him to give a clear and decided Anſwer to the Matter referred to him; and that he even aſſiſted perſonally at ſome of the Conſultations, and the Records were open to him.—Being aſked, What he meant by aſſiſting perſonally? ſaid, He was preſent at the Council Table, and had the Advantage of all the Converſations that paſſed on the Subject, and an Opportunity (only given on very particular Occaſions) of urging verbally the Reaſons in Support of any of his written Opinions.—Mr. Barwell added, That theſe Reaſons do not appear upon the Records, but they naturally may be ſuppoſed to have an Influence on the Council, as they really had.—Being then aſked, If his Sentiments on the Subject, on which he has ſtated to have been over-ruled, were ever delivered in to Council? he anſwered, That they are not on Record, but that he urged them in Converſation at the Council Table; and that the Governor General inclined to the ſame Opinion, that it was better for the Zemindars to put in a Plea to the Juriſdiction of the Supreme Court; but that it was objected, that this Deſcription of Men did not come within the Juriſdiction, and that if the Court had any Authority to make them appear to the Juriſdiction, they had, in Fact, Juriſdiction over them—This Objection was made in Converſation by the Company's Law Officer, and by the other Gentlemen.—Being aſked, If Mr. Haſtings delivered the Opinion to which he inclined in Debate? he ſaid, That Mr. Haſtings did urge the Opinion, that a Plea was to be put in to the Juriſdiction; and that it was Time to oppoſe any Proceſſes of the Court at the Inſtant they operated to the Prejudice of the Revenue; and that in this Inſtance, it could not be until a Capias was iſſued againſt the Rajah of Coſſijurah.—And being aſked, About what Time this Converſation paſſed in Council? ſaid, He thinks it happened at the Firſt Conſultation on the Coſſijurah Cauſe, at the Time that the Opinion of the Advocate General was ſent to the Collector of Midnapore, with Inſtructions from the Council to follow it.—Your Committee then aſked Mr. Barwell, If the Council General were unanimous in Opinion relative to the Mode of Proceeding in the Coſſijurah Cauſe? he ſaid, That their Acquieſcence was unanimous, to give Effect to the Law Opinion of the Advocate General.—Your Committee obſerved to Mr. Barwell, that he had ſaid, That the Opinion of the Advocate General, which over-ruled his Opinion, was partly grounded on Matter of Law, and partly State Neceſſity: He was then aſked, Whether he thought the State Neceſſity for ſuch Acts did really exiſt? he ſaid, He did not think in the Firſt Inſtance it did exiſt; and added, That the mere putting in a Plea to the Juriſdiction, does not require the Preſence of the Perſon againſt whom the Proceſs of the Court iſſues, nor does it involve the Revenue; but if that Plea was over-ruled, or if through Ignorance, or by any Operation of the Law, the Party that ought to put in the Plea, was to be brought down to Calcutta, in ſuch Caſe, the State Neceſſity muſt compel the Government to reſiſt the Proceſs of the Court, or ſubmit to a certain Loſs in the Revenue.—He was then aſked, If in his Opinion, when theſe Acts of Reſiſtance were ordered upon the Advocate General's Opinion, no ſuch State Neceſſity exiſted? he anſwered, No State Neceſſity certainly did exiſt at the Time; Notice or public Proclamation was made of a certain Deſcription of Men, not being ſubject to the Juriſdiction—he believed that Proclamation went no farther than mere Information to that Deſcription of Men.—Being then aſked, If the State Neceſſity exiſted at the Time that Orders were ſent to Midnapore, and to Lieutenant Colonel Ahmuty? he ſaid, That it certainly did exiſt in that Stage of the Buſineſs, becauſe Writs of Capias and Sequeſtration had been iſſued by the Court againſt the Rajah, and had he been forcibly ſeized, it would have afforded an Excuſe to every Man dependent on him, and at all connected with the Revenue, to have charged a great Loſs of Revenue to the Confuſion conſequent on ſuch an Act.—Being aſked, If a Plea to the Juriſdiction might not have prevented the iſſuing the Sequeſtration, and conſequently that Neceſſity? he ſaid, It certainly might, becauſe thoſe Acts of the Court were ſimply to compel an Appearance to the Juriſdiction.—Mr. Barwell was aſked, If that was his Opinion at the Time? he ſaid, It was his Opinion at the Time: When the Government was committed, by the Notice given to all the Officers of the Revenue and Zemindars of the Country, in the firſt Inſtance, it could not afterwards recede, without producing Evils of a Nature that muſt have annihilated the Authority of the Government, by bringing their Orders into Contempt and Diſrepute—he added, That the Supreme Court was obliged to ſupport its own Authority; and the Governor General and Council compelled, circumſtanced as it was, to keep up the Reputation of its Powers throughout the Provinces.—Being aſked, If he recorded that Opinion in the Council? ſaid, That he does not know that he did.—He was aſked, If the Council General encouraged the Rajah of Coſſijurah not to plead to the Juriſdiction? ſaid, That the Council General directed the Opinion of the Law Officer to be given to him, and the general Notice that was iſſued to all the Zemindars, was properly an Encouragement to reſiſt the Juriſdiction.—Being aſked, If the Rajah of Coſſijurah had pleaded to the Juriſdiction at firſt, whether many of the ſubſequent Miſchiefs might not have been prevented? anſwered, They certainly might, for the Proceſſes of the Court were to compel Appearance.—Being aſked, At what Time the Capias originally iſſued againſt the Rajah? ſaid, The Firſt Proceſs iſſued a little before that Period of Time when the Advocate General was conſulted by the Council General, and Notice given to the Zemindars.—Being aſked, What would have been the Conſequences if the Rajah had not found Bail? ſaid, That he would in that Caſe have become the Sheriff's Priſoner, and been brought to Calcutta, to the great Detriment of the Revenue.—Being aſked, If he knew in what Sum he was held to Bail? ſaid, In a conſiderable Sum, he could not charge his Memory with the Amount.—Being aſked, If the Rajah could eaſily have found ſuch Bail? ſaid, That the Government on ſuch an Occaſion muſt have been Bail; and added, that if the Rajah had looked for it elſewhere, it would have been attended with conſiderable Charge.—The Committee then aſked Mr. Barwell, What Steps did he take, to get the Rajah to plead to the Juriſdiction, in order to prevent the Conſequences which followed? who ſaid, That he had not taken any Steps to influence the Rajah to plead to the Juriſdiction; he added, that the Line of Conduct recommended by the Company's Law Officer, and adopted by the Council General, precluded any Steps that could poſſibly be taken to ſuch an End.—Being aſked, If he thought himſelf in his Capacity as Counſellor, as good a Judge of what was neceſſary to the Well-being of the State as any Lawyer? he anſwered, That if a long Reſidence, and a long Acquaintance with the Affairs of Bengal, could be ſuppoſed to give him ſuperior Information to Gentlemen not ſo long converſant in the Intereſts of the Government, he certainly muſt have ſuppoſed himſelf as well qualified as any Lawyer, to judge of the Well-being of the State.—And being aſked, Whether he thought that the Acts of the Judges in the Caſe of the Rajah of Coſſijurah, were illegal, and an Uſurpation of Juriſdiction? he ſaid, That he thought the Judges were authorized under the Charter, and that their Acts do not properly deſerve the Epithets, illegal, or an Uſurpation of Juriſdiction—That he thought they had the Power within themſelves of moderating their Proceedings on ſuch Occaſions:—He added, that this was mere Matter of Opinion, and poſſibly he might have fallen into an Error, in relation to their Power of moderating their Proceedings. —Being aſked by Your Committee, If he thought it his indiſpenſable Duty to give the Court every Kind of Oppoſition in that Affair? he ſaid, That after the Government was committed, and Notice given to the Zemindars, it ſtood pledged for their Protection; and the Nature of the Proceedings of the Supreme Judicature, conſequent to it, muſt have materially affected the Revenue, if they had operated; he therefore conceived it to be the indiſpenſable Duty of Government to reſiſt the Court: he added, That he did not think it was neceſſary that the Government ſhould have been committed.—Your Committee then aſked Mr. Barwell, What Meaſures he purſued to prevent the Government from being committed? he ſaid, That he had already ſtated, that he had expreſſed his private Sentiments, and that the Law Officer to whom the Company had intruſted the Support of their Rights, had over-ruled that Opinion.—Being aſked, If the Council General had ever conſulted the Judges upon Matter of Law? ſaid, He could recollect only One Inſtance, viz. the Convulſion with which the Government was threatened by the Aſſumption of the Place of Governor General by Sir John Clavering; at that Time he believed the Judges were called upon.—Being aſked, If they gave an Opinion? ſaid, They did.—Being aſked, Whether the Council General conſidered it as valid, and acted upon it? he ſaid, The Council acted independent of that Opinion; and added, that they took it to give Weight to the Determinations they had previouſly formed, becauſe the Members of that Council were equally divided, Two and Two; the Governor General and Sir John Clavering being Parties.

Your Committee then aſked Mr. Barwell, Whether he would have thought it neceſſary to follow that Law Advice, if it had not been conſonant to their previous Reſolution? who ſaid, The Council, that is the Governor and himſelf, againſt Sir John Clavering and Mr. Francis, had no Doubt as to the Propriety of its Proceedings; but as Sir John Clavering held the Command in Chief of the Army, the Council thought it incumbent upon them to preclude the Poſſibility of a Doubt upon the Powers they exerciſed:—He added, He knew, that had not Meaſures been inſtantly taken to ſecure the Garriſon of Fort William, and to have guarded the Officer commanding in it, that an Order would have been iſſued by General Clavering (which was already penned) to have taken the Command of that Garriſon from the Governor General—That had the Opinion of the Judges been againſt the Sentiments he entertained as to the legal Powers of what he deemed the Majority of the Council, that he certainly would have followed that Opinion, through Conviction that it would have been his Duty.—Being aſked, Whether he conſidered the Judges as competent by Law to decide upon a Plea to their own Juriſdiction? ſaid, He thought the Charter expreſsly directs that they ſhall decide that Queſtion—That his Opinion as to their Competency is founded merely on the Charter.—Being aſked, Whether Sir John Day, in the Opinion he had given, declared, that the Oppoſition which he adviſed to the Proceſs of the Court, was in itſelf ſtrictly legal, even though the Judges had exceeded the Powers given them by the Charter? ſaid, He could not ſpeak ſo pointedly to the Opinions of Sir John Day, as they are expreſſed upon the Records of the Company—The firſt Opinion on this Subject, is, he believes, limited to a Declaration, That a certain Deſcription of Men are not the Objects of the Juriſdiction, and that it depends on them to reſiſt it; it does not adviſe the Council to the Reſiſtance, but it commits the Council, by the Notice the Council iſſued upon it.—In the next Opinion, when the Court of Judicature proceeded to enforce its Proceſs upon the State of Facts at that Time, he approved the Reſiſtance in the Council, and the Manner in which it ought to be made.—The firſt Opinion was declared by Sir John Day to be ſtrictly legal; the Second, he thinks, was not ſo; it was upon the State Neceſſity.—Being aſked, If Sir John Day had argued that Point of Juriſdiction before the Judges, and they had over-ruled his Plea, and affirmed their Juriſdiction, would he not have thought himſelf bound, as a Counſellor and a Servant of the Company, to acquieſce in that Determination, until the Matter ſhould have been decided by the King and Council upon Appeal? ſaid, He ſhould certainly have acquieſced, and propoſed an Appeal.—Being aſked, If he moved in Council, that Sir John Day, Advocate General, ſhould ſupport the Rajah of Coſſijurah's Plea to the Juriſdiction? ſaid, He did not move it; that ſuch Plea was precluded by the Notice iſſued by the Council, with the Advice of Sir John Day.—Being aſked, If he approved the iſſuing of that Notice? ſaid, He had already anſwered this Queſtion.—Being aſked, When Sir John Day gave his firſt Opinion, which was confined to Matter of Law merely, he propoſed the Matter of Law ſhould be pleaded to the Juriſdiction? ſaid, He did not; the very Advice precluded the Plea to the Juriſdiction.—Being aſked, If he adviſed the Reconſideration of that Part of the Opinion that ſeems to recommend Reſiſtance rather than a legal Plea? ſaid, He did not; the Law Officer appointed by the Company had declared the Law, and pointed out the Line of Conduct for Government.—Being aſked, whether it was his Opinion, that the Judges, in claiming ſuch Juriſdiction, had exceeded their legal Powers before this Opinion of the Advocate General was given? ſaid, As he underſtood the Charter of Juſtice, every Native falls within the Juriſdiction of that Court, ſo far as to be cited; and that it depends on the Judges of the Court to declare whether they are Objects or not Objects of the Juriſdiction.—The Committee then obſerved to Mr. Barwell, That this being his Opinion, and the Opinion alſo of the Judges, did he not think that they were in Bengal the laſt Reſort and final Judges in all Matters of Law? ſaid, He certainly did; but the Directors of the Company having ſent out a Gentleman for the expreſs Purpoſe of ſupporting their Rights, and the Rights of Government, it was incumbent on the Government of that Country to ſupport and aſſiſt that Law Officer to the utmoſt of its Means; his Opinions had been invariable, until the Inſtant Sir John Day declared, that a certain Deſcription of Men might reſiſt the Proceſs of the Court, though in Contradiction to the public declared Opinion of the Judges, becauſe it adviſes the Counſel to conteſt that Claim advanced by the Judges, and muſt naturally force a Deciſion from this Country.—Being aſked Whether that Deciſion might not have been obtained by a Plea and Appeal, without Force? ſaid, In his Apprehenſions it might, though poſſibly not ſo inſtantaneouſly and directly.—Being aſked, If he had preferred the Method of Force on Account of the Certainty and Promptitude of Deciſion? ſaid, He did not give that Preference; he acquieſced ſimply in the Advice of the Law Officer, and the Preference, if any, muſt be imputed to him, and the Gentlemen of the Council of the ſame Opinion.—Being aſked, If having committed any Act contrary to the declared Opinion of a legal and competent Court of Juſtice, he could be juſtified in Law by having followed the Opinion of any Lawyer whatſoever? ſaid, That if any Community of Men entruſted any particular Intereſts to an Individual, and he acted under the Orders of that Community, he thought it a ſufficient Plea to exonerate him from the Conſequences of following that Perſon; and the Community who appointed him, in Juſtice and Honour are bound to bear him harmleſs.—Being aſked, If they could do ſo in a Criminal Proceſs? he ſaid, They undoubtedly could not.—Being aſked, At whoſe Deſire an Advocate General was appointed? ſaid, That the Application, in the Firſt Inſtance, was from Sir John Clavering, Mr. Monſon, and Mr. Francis; it was afterwards recommended by the Council at large to the Court of Directors.—Being aſked, If the Court of Directors inſtructed the Governor General and Council to follow the Opinion of the Advocate General againſt the Deciſions of the Supreme Court? ſaid, No; it would have been an Abſurdity; the Eaſt India Company are equally bound by thoſe Deciſions, with the other Members of the Community.—Being aſked, If the Act of Parliament and Charter of Juſtice did not order all the Civil and Military Powers of the Company to be aiding in the Execution of the Proceſs of the Supreme Court? ſaid, He hoped the Committee would allow him, in Reply to this Queſtion, to refer to the Charter of Juſtice, p. 39, which directs Obedience in all Things to the Supreme Court of Judicature at Fort William in Bengal, to all Perſons belonging to the liege Subjects of the Crown, as they will anſwer to the contrary at their Peril.—Being aſked, If Coſſinaut Baboo was denied Juſtice by the Governor General and Council in the Proceedings between him and the Rajah Soondernarain? ſaid, He was not denied Juſtice; the Cauſe was under Examination; and it was upon ſome Doubts and Proofs demanded of the Debt ſtated againſt the Rajah, beyond the Notes and ſigned Papers produced, that he left the Council, and made his Application to the Supreme Court.—Being aſked, How long the Cauſe had been under Examination before the Governor General and Council? ſaid, Five or Six Months.—Being aſked, If Mr. Pearce, Collector at Midnapore, was charged, in any of the Proceedings of this Cauſe, with Corruption? ſaid, He believed not; Coſſinaut, he thinks, in One of his Petitions, has either obliquely hinted that he was partial to the Rajah, or he heard him affirm this at the Council Board, upon the Statement of an Account that was received from Midnapore, ſtating the Produce of the Rajah's Eſtate whilſt he was a Minor, the Revenues he had paid into the public Treaſury, and the Balance remaining.—Being aſked, If there appeared to him any ſufficient Reaſon for ſuſpecting Mr. Pearce of any ſuch Partiality? ſaid, Not in the leaſt.

George Vanſittart, Eſquire, being then examined, informed Your Committee, that he had reſided

Fifteen Years in India, from 1761 to 1776—That he had been in the Company's Service—That he was in the Council of Calcutta—That he was Chief of Midnapore from 1767 to 1770—That the Revenues ariſing from the Diſtrict of the Rajah of Coſſijurah, formed a Part of his Collections—That the Rajah was the moſt conſiderable Landholder in that Diſtrict, his Revenue being more than double that of any other Zemindar, and that he was always treated with a great deal of Reſpect—Then being aſked, In what Manner any Balances of Revenue that might be due in the Rajah of Coſſijurah's Diſtrict were collected? ſaid, That there never was any Balance due in that Diſtrict, during the Time he was at Midnapore, the Rajah having paid his Revenue punctually, according to his Engagements.—The Witneſs further ſaid, That the Amount of the Annual Revenue of the Rajah was One hundred and Eighty thouſand Sicca Rupees, or about Twenty thouſand Pounds a Year.—The Witneſs being aſked, What is the Extent of the Diſtrict of Midnapore? ſaid, About the Size of Yorkſhire, including the Mountainous Diſtrict.—Being aſked, Whether there were many Zemindars of conſiderable Property in the Midnapore Diſtrict? ſaid, That the Zemindaries in that Diſtrict are in general very ſmall—That, excepting thoſe of Coſſijurah, Midnapore, and Minochouda, he believes none amounting to Fifty thouſand Rupees—That there are ſome ſo ſmall as One thouſand, and theſe are called Talookdars.—Being aſked, Whether, before the Engliſh became poſſeſſed of the Dewannee, by Treaty with the Great Mogul, the Zemindars were conſidered as the Servants or Officers of thoſe exerciſing that Juriſdiction? the Witneſs anſwered, Not as Servants or Officers, but Landholders, who paid them their ſtated Rents—that when the Revenue Juriſdiction was ceded to the Engliſh, they were not underſtood to be thereby inveſted with any other Power or Authority than what uſually accompanied ſuch Juriſdiction—Being aſked, Whether the capital Rajahs of the Country were not formerly conſidered as ſubordinate Princes, who exerciſed Juſtice, and maintained Armies? the Witneſs ſaid, Many of them may certainly have been conſidered as tributary Princes; the Government very little interfered with them in the Management of their Diſtricts.—He further ſaid, That it was not uſual, in the Time of the Mahomedan Government, to arreſt the Perſons, break into the Houſes, and ſeize upon the Goods of ſuch Rajahs, in ordinary Proceſs for Debt; nor was it uſual, in the intermediate Space of Time, between the Ceſſation of the Mahomedan Government, and the Arrival of the Judges in Bengal—That it was uſual for Parties, Accomptants to the Revenue, to have their Accounts liquidated by the Chiefs or Reſidents appointed by the Governor and Council, in the various Diſtricts of the Country—That in the Diſtrict of Midnapore, the firſt Juriſdiction was that of the Reſident; and that if the Party was diſſatisfied with his Deciſion, he might apply to a Gentleman of the Calcutta Council, who had the Office of Collector General; and that, if ſtill diſſatisfied, he might apply to the Governor and Council at large in their Revenue Department, who held a Court competent finally to adjuſt and to decree Payment of the Balances that ſhould appear due.—The Witneſs being aſked, Whether he was converſant in the Mode of Money dealing in that Country? ſaid, He never made it his particular Study, but has only that Information he acquired in his Buſineſs—That it is very much the Practice for the Zemindars, Talookdars, and Ryots, to borrow Money for the Annual Charges attending their ſeveral Concerns—That moſt of them have Debts of an old Standing, to a very large Amount—That Money is advanced to them by the Shroffs, at Intereſt, and that Twenty-four per Cent. per Annum is reckoned a moderate Intereſt—That if Engliſh Proceſs was immediately iſſued for the compulſory Payment of all thoſe Debts, upon the Principles upon which Debts are recovered in England, the Witneſs believes almoſt every Zemindar in the Country would be impriſoned, the Ryots would be diſperſed, and the Company would not receive a Fourth Part of their preſent Revenue—That it has been conſidered as a Part of Policy and Juſtice to ſecure the Payment of the Rents to the Company, before the Debts to Individuals are ſuffered to affect the Land or Goods; and that this was the Practice before the Ceſſion of the Dewannee to the Company, as well as ſince—That the Government always gave every Aſſiſtance in their Power to the Recovery of private Debts, conſiſtent with the Security of the Revenue; but as it would often happen, that private Debts could not be recovered, without a Loſs to the public Revenue, Difficulties would of courſe ariſe; and as to the Debts of very old Standing, they have generally been held as deſperate, and, indeed, have been diſcountenanced, and conſidered to ariſe from Uſury, and ſcarcely allowed to be juſt Demands.—Then being aſked, Whether the ſame Policy had been obſerved in reſpect to the Balances of Revenue, and the Debts due by the Zemindars to Government remitted to them? the Witneſs ſaid, Where there has been a Conviction of the Inability of a Zemindar to pay his Arrears, it has frequently been done, from an Apprehenſion that any Severity would tend only to diſcourage him from the Cultivation of his Lands—That on the Frontiers of the Provinces, particular Inſtances have occurred, where Zemindars, preſſed for the Payment of their Balances, have fled the Country; and on the Appointment of a Collector to demand the Rents immediately from the Ryots, many of theſe, as they are in general attached to their Zemindars, have followed their Zemindar, and made hoſtile Incurſions on the remaining Inhabitants; and that the Diſtrict has, in conſequence, ſo far gone to Ruin, that the Government has been obliged to enter into a Negociation with the old Zemindar, and to receive him back on almoſt his own Terms, to prevent the total Deſolation of the Diſtrict.—The Witneſs further adds, That he thinks indiſcriminate Execution iſſued for private Debts, would produce the ſame Effect—That before the Appointment of the Supervisors and Collectors in 1770, the Revenue Accounts were ſettled, in the firſt Inſtance, in the Bengal Province, by the Dewan Mahomed Reza Cawn, with the Approbation of the Reſident at the Durbar; and in the Bahar Province, by the Dewan Sitab Roy, with the Approbation of the Chief of Patna—That this Deſcription relates to all the Country, except the Ceded Lands, that is, Burdwan, Midnapore, Chittagong, and the Calcutta Pergunnahs—That Cauſes of private Property, not relating to the Revenue, were tried in the firſt Inſtance, during the ſame Period, in the ſame Manner as Revenue Diſputes, but a Reference was always made to Perſons converſant in the Cuſtoms and Laws of the Mahomedans and Gentoos, according to the Nature of the Cauſe in Queſtion, who decided by the Laws and Cuſtoms of the Mahomedans where they were concerned, and by thoſe of the Gentoos where they were concerned—That thoſe Laws were materially different from the Engliſh Law—That neither the Parties nor Judges could be ſuppoſed to be acquainted with the Engliſh Law.—Then the Witneſs being aſked, What Method was followed by the Creditor of a principal Rajah, for recovering his Money, before the Dewannee was ceded to the Company? informed Your Committee, That the Perſon who lent his Money to the Rajah, muſt have truſted to the Rajah's Honour, knowing that there was no Juriſdiction which would inforce the Payment by any violent Proceſs.—Being aſked, Whether, before the Arrival of the Judges in Bengal, there was not a large Trade carried on in all Parts of the Country, much Money dealing, and much Credit given? the Witneſs anſwered, There certainly was.

Your Committee then examined Charles William Boughton Rouſe, Eſquire, a Member of Your Committee; who being aſked, Whether under the Mogul Government a Zemindar was conſidered as a Collector of Revenue, and a Servant of the State, or as a Landholder? informed Your Committee, That he is not quite certain about the firſt origin of Zemindars; but he is very certain, that ever ſince the Subjection of Bengal to the Mogul Government, they have been conſidered as the hereditary Landholders of the Country—That in Bengal they are moſtly Gentoos, very few Mahomedans—That a Mahomedan may become Zemindar by Purchaſe—That in the Province of Bahar he believes there are many Mahomedan Zemindars.—Then being aſked, If thoſe Zemindaries were conſidered as ſubject to Sale for Debt, without the Conſent of Government? he ſaid, Moſt certainly not; that ſome have been ſold ſince (after the Company became poſſeſſed of the Dewannee) by Order of the Governor General and Council, for Deficiencies of the public Revenue, but that the Government has always been very tender of coming to that Extremity—That the Diſtricts of Cherolea and Mudodea were ſold in 1776, and the new Purchaſer confirmed in Poſſeſſion by an Inſtrument of the Governor, called a Sunnud; but ſuch was the Attachment of the Inhabitants to their old Zemindar, that they revolted againſt the new Purchaſer, who was not eſtabliſhed in Poſſeſſion but by a military Force; and a great Deficiency was occaſioned in the Revenue of thoſe Diſtricts.—Then being aſked, Whether ſince the late letting the Farms in 1772, upon advanced Rents, the Quality of the Zemindars has been ſo far altered as to make them conſidered as Officers of Revenue, and Servants of Government? The Witneſs replied, That he thinks not in any Reſpect; that beſides, at the Expiration of that farming Term of Five Years, Government ſaw the Expediency of reſtoring the Lands to the Poſſeſſion of the ancient Zemindars, rather than entruſt them with temporary Tenants; and that, in the Settlement made for the Dacca Province, in October 1777, the Provincial Council (of which the Witneſs had the Honour to be Chief) have this Paragraph in their Letter to the Governor General and Council, "We have the Pleaſure to remark, that in the End not one ſingle Per-"gunnah was given in Farm"—That it was always his Opinion, that the Deprivation of the ancient Zemindars, was both impolitic and unjuſt—That the Number of Zemindars in the Dacca Province, who pay the Revenue immediately to Government, muſt be about Four hundred, ſome great, ſome ſmall, the largeſt of them not paying a Revenue of above Twenty thouſand Pounds a Year—That the Capital Zemindars in the Dacca Province, and other Provinces he is acquainted with, are conſidered as Men of Rank—That they are very much reſpected throughout the Country; that Obedience is paid to their Power and Influence; and that the Attachment of the Inhabitants to their Zemindar, amounts almoſt to Devotion—That in reſpect to the Powers they exerciſe, the Patent of Confirmation which is given to every Zemindar, under the Authority of the Nazim or Mogul's Viceroy, and Dewan or Mogul's Receiver General, deſcribes their Functions, and gives them a very conſiderable Juriſdiction; and that it was under the Sanction of that Patent, that the Engliſh Company exerciſed civil and criminal Juriſdiction in that Country, previous to the Inſtitution of the Supreme Court of Judicature; and that the criminal Court which they held before the Acquiſition of the Dewannee, was called the Zemindary Court—That the Witneſs believes this Syſtem has prevailed throughout the Mogul Empire ever ſince the Reign of Akbar, very near Two hundred Years ago, who formed a Syſtem of Regulations which have been much reſpected ever ſince.—Being aſked, Whether the Zemindars are looked upon by the People who live under them, as their natural hereditary Protectors, connected with them in Blood and Manners, or a ſet of People acting as mere Servants of Government, who they think want the Interpoſition of a ſtrong Power to prevent their Oppreſſions? The Witneſs anſwered, That the Inhabitants are generally diſſatisfied, if a Servant of Government is ſent to ſuperſede the Power of the Zemindar; and he does not think the Zemindars in general incline to oppreſs their Huſbandmen, but rather to compromiſe Difficulties with them, and protect them—That he does not conſider Zemindars as Collectors of the Revenue for Government, or in any Reſpect as Servants of the Company, but rather as hereditary Proprietors, paying a fixed Tribute to Government; that they are conſidered as the natural Nobility and Gentry of the Country; but that the Rules of that Government give them more Power than our Conſtitution can give to Perſons of equal Rank and Property here.—Being aſked, When the Zemindary Courts ceaſed in Calcutta? the Witneſs ſaid, A new Arrangement for all Bengal was formed in the Year 1772, the Particulars of which, with the Deſcription of all the Courts, and Definition of all their Powers, are entered at large in the Seventh Report of the Committee of Secrecy; and that Plan continued to prevail in Calcutta until it was ſuperſeded by the Arrival of His Majeſty's Judges, and that the Court of Zemindary continued there till 1772.—Being aſked, Whether the Civil and Criminal Zemindary Courts exiſted under the Mayor's Court? the Witneſs ſaid, That down to the Year 1772, an abſolute Juriſdiction was exerciſed within the Diſtrict of Calcutta over the Natives, in a Civil Court, called the Court of Cutchery; and in a Criminal Court, called the Zemindary.—That after 1772, ſimilar Courts were formed, under the Title of Dewannee Adaulut, and Phouſdary Adaulut.—Then being aſked, What was the Difference in the Management of the Company in the Collection of their Revenues from the reſpective Zemindaries, before the Regulation in 1777, as to the Appointment of Collectors or Zemindars? the Witneſs informed Your Committee, That he does not conceive that the Word "Appointment" can, in the moſt diſtant Degree, apply to Zemindars; the principal Alteration which took Place, at leaſt in the Dacca Diſtrict, which comes moſt within his Knowledge, was in reinſtating Zemindars who had before been diſpoſſeſſed.—Being aſked, What was the Difference in the Collection of the Revenues, between a Collector and Zemindar? he anſwered, That the Collections are made from the ſame Sources by both; but with regard to Individuals, there is this Difference, that the Collector receives a ſtipulated Salary, and is liable only for what he can collect; whereas the Zemindar collects from his own Proprietary Land, and is liable for the eſtabliſhed Revenue, whether he collects it or not.—Being aſked, Whether they are not both removeable by, and accountable to, the Company? the Witneſs ſaid, the Power of the Collector neceſſarily ceaſes when his Service is performed; the Poſſeſſion of the Zemindar is permanent, and he is not held liable to Removal, but for great Deficiencies of Rent, according to Regulations which have formerly been eſtabliſhed; and, as he has already informed the Committee, the Governor General and Council (for no ſubordinate Authority has the Power to do it) are very tender of proceeding to the Extremity of depriving a Zemindar of his hereditary Zemindary.—Being aſked, Whether in the Zemindaries where there are Collectors of the Revenue, theſe Collectors are treated with more or leſs Reſpect than the Zemindars? he ſaid, If the Queſtion means to apply to Engliſh Collectors, thoſe Perſons are conſidered as the immediate Servants of Government; but this Authority does not ſuperſede that of the Zemindars—That the Engliſh Collectors receive the Rents of the Company, as Dewan from the Zemindars themſelves, without any Interference with the Cultivators or Undertenants—That Natives are ſometimes ſent to take Charge of the Lands of a Zemindar, for Default of Payment, and they are naturally reſpected as Servants of Government muſt be; but that this Reſpect to them proceeds from Fear, and not from Attachment.

Being aſked, Whether the Son or Heir of a Zemindar could be refuſed Admiſſion to the Succeſſion of the Zemindary, by the Mogul or the Officers of his Government? he ſaid, Whilſt he was in Bengal he made much Enquiry into this Subject, as being of the higheſt Importance to the Security of Property, the Nature of landed Tenures in Bengal, and the equitable Government of that Country; and according to the beſt Information he could ever derive from Books, or from Converſation with the moſt intelligent Natives, he has the ſtrongeſt Reaſon to believe, that Zemindaries were always conſidered under the Mogul Government, except in Times of Anarchy and Uſurpation, to be an hereditary Property, which it would have been regarded as an Act of Tyranny in the Sovereign to infringe, unleſs for Default of the Poſſeſſor in paying the ſtipulated Revenue, or for Rebellion, or ſome atrocious Culpability—He has been informed, that the Heir of a Zemindar might have applied to the Court of Juſtice, compoſed of the Cauzee and Muftees, or to the Dewannee Officers, for a Deciſion upon his Title to the Succeſſion, if diſputed by another Claimant; and that even the Emperor Aurungzebe was known to purchaſe Zemindary Lands from the hereditary Zemindars.—In a variety of Caſes, which he has known referred to Mahomedan or Hindoo Lawyers, the Right of a Son or Heir to ſucceed to the Poſſeſſion of a Zemindary, has never been brought into Doubt.—Moreover, he had ſeen Opinions of Mahomed Reza Cawn, now Naib Subah of Bengal, and of the late Rajah Shitabroy, both of them very able Men, and long verſed in the Affairs of the Indoſtan Government, and the latter brought up at Delhi in the Service of Mahomed Shah's Miniſters; which ſay moſt deciſively, that the Son of a Zemindar has a Right to ſucceed his Father in the Poſſeſſion, even independently of any Sunnud (Patent) from the Government.—However, it has been uſual to obtain One from the Government, in order to confirm the Title of the new Poſſeſſor, and to have it entered in the public Records; by which his Authority over the Lands is more completely eſtabliſhed.—The Patent likewiſe authorized the Zemindar to ſuperintend the internal Police of his Diſtrict, and to bring Juſtice home to the People, who ſaw it adminiſtered by Men holding a permanent Intereſt in the Proſperity of the Country; this was the more neceſſary, when the Claimant was Heir in a collateral Line, or in a more diſtant Degree to the laſt Poſſeſſor: Upon theſe Occaſions, certain Fines were paid to Government, and Fees to the public Officers; this Payment is ſtill continued in Bengal, but is rendered very moderate by the Regulations of our Government; indeed, were it not ſo, the Zemindars in general would not be able to pay it under the inhanced and unſettled Rent to which their Lands have been ſubjected by the Engliſh Government, and in ſome Periods under that of the revolted Nabobs, who preceded the Engliſh; a Syſtem which an attentive Conſideration of the Subject has induced him to think unjuſt in its Principle, pernicious in its Conſequences, and not productive in the Application.—He has ſeen Opinions ſimilar to thoſe he has already mentioned, from the Roy Royan, who was the chief ſuperintending Officer of the Khalſa or Exchequer, of the Pundits or Interpreters of the ancient Hindoo Laws, and of the Canougoos, who formerly held their Appointment from the Emperor, and had their Deputies in every ſubordinate Diſtrict to expound the Uſages of the Country (as the Term of Canougoo implies) and to authenticate and record all Conveyances and Transfers of landed Property.—They ſay, that a Zemindary devolves to the Son or Heir of a Zemindar, and although the Country belongs to the King, and he may indeed give it to whom he pleaſes, yet that it is neither conformable to Juſtice nor to the Cuſtom of the Country, that he ſhould join it to any other than the lawful Heir, either Male or Female.

Edward Baber, Eſquire, being examined, informed Your Committee, That he had reſided in Bengal upwards of 17 Years; that he left it in January 1780—That he was in the Company's Employment firſt, as Reſident of Midnapore, and afterwards as Chief at Muxadabad—That the Collections of Coſſijurah were under his Direction, as Reſident of Midnapore—That the Amount of the Revenue actually paid by the Rajah of Coſſijurah was, he believes, between 15 and 20,000 Pounds per Annum.—That he was the principal Zemindar of the Diſtrict—That he was treated by the Witneſs with that Reſpect that was due to a Perſon of his Rank and Conſequence—That he was conſidered by the Natives in general as a Man of ſuperior Rank—That he was looked up to with Reſpect, and treated with Deference—That he was of a high Caſt of Hindoos, either a Bramin or a Cuttry, which is the next Caſt to a Bramin—That he believes the Zemindary has been a long Time in his Family—That he lives in a State of Grandeur.—Being aſked, What Effect he conceives the ſerving a Writ by Proceſs of the Supreme Court upon ſuch a Zemindar, would have upon his Ryots, or Sub-tenants? he ſaid, That the Effects would be various; that he ſhould think they would, in the firſt Inſtance, be impreſſed with Surprize and Horror, at ſeeing a Perſon whom they have always been taught to reſpect and obey, treated in a Manner which to them would appear an Indignity; that he ſhould alſo conceive it would tend to leſſen that Reſpect and Obedience which they have been accuſtomed always to pay to their Zemindar, for they conſider him in the Light of a Superior, who has a ſovereign Authority over them.—Being aſked, What Effect the compulſive Abſence of a Zemindar would have upon his Zemindary? he ſaid, It would depend upon Circumſtances—if it were a ſudden and compulſive Requiſition, at the critical Time of the Collections, it certainly would have a bad Effect; and if it were at the Inſtance of his Subtenants or his Collectors, it would have a ſtill worſe Effect, by impeding the Collections—That in the Inſtances above alluded to, the Revenue of the Company would certainly be injured by the Abſence of the Zemindar.—Being aſked, Whether the Plea of the Sufferings of the Zemindar in Perſon or Property, if obliged to attend the Summons of the Supreme Court, would be heard in Mitigation of Arrears due by him to the Governor General and Council? he ſaid, He ſhould imagine not.—Being aſked in what Manner Proceſs would be ſerved upon a Zemindar under the Government, as eſtabliſhed before the Arrival of the Judges? he ſaid, It would depend upon the Circumſtances of the Cauſe, whether Criminal or Civil, or whether it was a Point relative to the Collections; and in all theſe Caſes, the Neceſſity of his Preſence would be conſidered; becauſe, if it related to the Collections, his Deputy would attend, ſo in caſe of Debt; but in criminal Matters the Zemindar would be ordered to attend himſelf, and then a Perwannah would be iſſued, requiring his perſonal Attendance; but in this Caſe reſpect would be paid to his Rank and Station, for it would not be ſent by a common Meſſenger, but by a Choubdar—That if he diſobeyed this Perwannah, a more peremptory Summons would be ſent, and the Conſequences of his Neglect particularly repreſented to him; inſtead of one Choubdar, more would be ſent, and he would be threatened with compulſive Meaſures; which, if he continued to reſiſt, his Houſe would be ſurrounded, and he would be prevented from performing his Ablutions; and if he came out, his Perſon would be ſeized, but if he took Refuge in the Temples or Zenana, particular Care is taken not to violate thoſe Places.—Then being aſked, Whether Zemindars were liable to perſonal Proceſs from private Claims? the Witneſs informed Your Committee, That this Point was agitated by the Governor and Council about 1773, and ſeveral Queſtions propoſed by the Board, in which this Mode of Proceſs was particularly defined, and Regulations framed for the Guidance of the Provincial Councils.—Then being aſked, Whether Farmers of Lands under the Company, are conſidered in Bengal as mere Collectors of Revenue would be conſidered in England? he anſwered, That in order to afford the Committee a ſatisfactory Anſwer to this Queſtion, it will be neceſſary to give more than a bare Negative, and to add an explanation of the Tenures in Bengal, for a parallel can ſcarcely be drawn between a mere Collector of a Revenue which ariſes from Taxes on various Articles, and a Proprietor or Farmer of Land, where the Revenue is paid from the Produce of that Land: A Zemindar and Landholder in Bengal, hath an hereditary Right to the Diſtrict of which he is a kind of feudal Lord; a certain Proportion of the Produce of his Lands, which Proportion was fixed by the Nabob, who, to carry on the Alluſion, was the Lord Paramount, was ſtipulated to be paid by the Zemindars in fixed Monthly Payments; this Settlement was annual, and the Sum ſo fixed was the Revenue of Government, all above belonging of courſe to the Zemindar; when he had made his Agreement with Government, he had then to make his own with the Ryots or Tenants; ſome Parts of his Lands he might perhaps let to reſponſible People, and others he would hold in his own Hands, and appoint his own Collectors; but in both Inſtances, the Zemindar had a judicial Authority, and to his Court and Cutchery Appeals were made, and Complaints were lodged, if either the Farmers, or his own Collectors, oppreſſed the Tenants by Exactions, or if there were litigated Accounts; on this judicial

Authority was built the Foundation of that Power, which was to enable him to enforce his Collections; and conſequently it met with every reaſonable Support from the Government, which was to look to thoſe Collections for its Revenues. This is a very ſummary and general Account of the Mode of Settlement in the Nabob's Government.—In ſome of the Diſtricts which were ceded by the Nabob Coſſim Ali Cawn, the Governor and Council adopted the Mode of farming, and alſo of letting the Lands on longer Leaſes to the Zemindars themſelves, inſtead of the Annual Settlements; however, in moſt Parts of Bengal, Bahar, and Oriſſa, and I believe, if I except Burdwan and the Calcutta Pergunnahs, I may ſay in all Parts, the uſual Cuſtom obtains, of making Settlements with the Zemindars; but then they have been lately made for Five Years, inſtead of One, and in Bahar for Life. The Zeminder, in many Reſpects, reſembles a feudal Lord; on the Birth or Marriage of the eldeſt Son, he was complimented by a Contribution from his Tenants, or rather Vaſſals, for they reſemble them much more; if he went on a Pilgrimage to Jaggernaut or Benares (Places of Worſhip) they contributed to the Expence of his Journey; if he travelled in his own Diſtricts, his Table, and that of his Retinue, was furniſhed by them; they received him with the utmoſt Reſpect and Deference; and when they have Occaſion to addreſs or accoſt him, they do it in the humbleſt Terms, and in the moſt ſuppliant Manner; they obey his Summons, and attend his Standard on any Emergency of Danger; he can oblige them to make public Roads, or repair Dykes; he is anſwerable for all Robberies committed in his Diſtrict, and conſequently the Regulation of the Police partly belongs to him; in ſhort, though a Tributary himſelf to the Nabob, he was in moſt Points, the Lord of his own Diſtrict, and treated as a Sovereign Prince by his Tenants or Vaſſals, who are taught from their Infancy, to owe him Fealty, reſpect his Commands, and obey his Authority.—Government had a Power to ſuſpend the Zemindar's Authority over the Collections of his Lands, in Caſes of Miſmanagement, and there have been Inſtances in which it hath been exerciſed, and the whole Diſtrict let out to farm; but in ſuch a Caſe, and indeed in all Caſes where a Farm is granted by the Company, the Farmer ſtands preciſely in the Situation of a Zemindar, as far as regards the Management of the Collections; he appoints his own Collectors; he holds his Court of Cutchery, to which Complaints are preferred, and in which litigated Accounts are ſettled; he regulates the Police, and is reſponſible for all Robberies committed in his Farm, if he does not apprehend the Thief: He can uſe certain compulſive Meaſures, from his own Authority, to oblige his Tenants to pay their Rents, if they are in Arrear; he enters into an Agreement with the Company in their Capacity of the King of Delhi's Dewan, for the Performance of theſe Duties, and they enter into one with him, granting him the Lands, and theſe Privileges, for a limited Time; whilſt he performs the Terms of this Agreement, he is totally independent of the Company, free to act as he pleaſes, nor have they the ſmalleſt Right to interfere with or controul his Conduct: There is a mutual Obligation, whereby the contracting Parties are bound to the Performance of certain Articles; but this mutual Obligation by no Means implies the Idea of Maſter and Servant, nor can it bring the Farmer to the Situation of a mere Collector of Revenue in England, who is a Servant appointed by Government for the ſimple Purpoſe of receiving Taxes on certain Articles, for which Service they pay him Wages, and can diſmiſs him at Pleaſure.—Being aſked, Whether any Attention was paid by the Country Courts to the Seaſons of the Year, with regard to iſſuing Perwannahs? the Witneſs ſaid, That during the Time of Harveſt, the Proceſs of Court was ſuſpended; and that in the Country Government it was carried ſtill farther, for at a particular Seaſon regular Perwannahs were iſſued, declaring the Suſpenſion, and forbidding Complaints to be inſtituted during that Seaſon.—Then being aſked, Whether the Accounts of the Securities of Zemindars were not liquidated and adjuſted by the Revenue Department? he ſaid, They were, upon any diſputed Account betwixt Zemindars and their Collectors, or Ryots, or their Securities; that the Mode is by Petition to the Chief and Council of the Diſtrict in which they ariſe, who generally adjuſt them; but if it is of ſufficient Conſequence, the Provincial Council refer it to the Governor General and Council at Calcutta, in their Revenue Department, who decide finally.—Being aſked, Whether, in caſe of Oppreſſions committed by Government's Collectors, or by Zemindars or Farmers, the Eſtabliſhment of Country Courts affords the Means of Redreſs to the oppreſſed; and if any, of what Nature? he ſaid, The Regulations of the Governor and Council have amply provided for Redreſs in every Caſe of this Kind.—Then being aſked, Whether under each Provincial Dewan there are public Officers, whoſe particular Duty it is to ſcrutinize and adjuſt conteſted Accounts between Zemindars and the Cultivator; and if there are, by what Titles they are called? he ſaid, That the Dewan is an Officer under the Provincial Council, and that there are Officers under him, for the Adjuſtment of Accounts; that the Aumeen is the Officer; that they were nominated by the Provincial Council, and approved by the Governor General and Council.—Then being aſked, Whether, if a native Collector or Zemindar commits perſonal Cruelty upon the Ryots, he is liable to Proſecution in the Criminal Courts of the Country Government? he ſaid, This is alſo provided for by the Regulations of the Governor and Council above alluded to; that if it be a Criminal Caſe, it is referred to the Court of Phouzdarry.—Being aſked, From whom do the Judges of the Court of Phouzdarry receive their Appointment? the Witneſs ſaid, That the Naib Soubah receives his Appointment from the Nabob, and all other Officers from the Naib Soubah.—Being aſked, By what Laws the Country Courts adminiſter Juſtice between Natives, Civil and Criminal? he ſaid, Between Mahomedans, by the Mahomedan Law; and between Hindoos, by the Hindoo Law.—Being aſked, Whether, as Chief of Muxadabad, the Country of the Rannee of Radſhi was not under his Juriſdiction? he ſaid, It was, and that the Annual Amount of the

Revenue ſhe paid to Government, was between 220 and 250,000 £.—That ſhe did not conduct the public Buſineſs of this Tract herſelf, but it was tranſacted by her Agents—That ſhe never appeared in public—That he never ſaw the Places of her Reſidence—That ſhe lives in great State—That ſhe is a Bramin—Being aſked, If he knew of any Proceſs ſerved againſt her in the Country Courts, and what was the Mode of ſerving it? he ſaid, The cuſtomary one, through the Vakeels or Agents.—Being aſked, in what Light he thinks the People of her Country would conſider a perſonal Proceſs ſerved on her by a Serjeant of the Supreme Court of Judicature? he anſwered, He cannot poſſibly ſay in what Manner their Idea of the Power of the Supreme Court might operate, but he ſhould think they would reſiſt ſuch a Proceſs, as much as an Attempt upon her Life.—And being aſked, Whether he is acquainted with the Money Tranſactions of the Country? he ſaid, That in the Courſe of Buſineſs they have come before him.—Being aſked, Whether the Landed People, from the higheſt to the loweſt, are not in Debt to the monied People at ſome Period of the Year? he ſaid, He believes they are, and for this Reaſon, that their Payments of Revenue are by Monthly Inſtalments; that of Courſe there are Seaſons of the Year when they are not furniſhed with Money from the Sale of their Crops, and therefore borrow it of their Shroffs.—Being aſked, What would be the Conſequence of making the Collection of the Revenue attend the gathering in and Sale of the Crop? he ſaid, That he has frequently heard from the moſt experienced Men in the Country, that if the Revenues were not to be collected by Monthly Inſtalments, it would not be poſſible to collect them at all.—Being aſked, Whether that depends upon the uncertain Time of the Sale of the Crop, or what other Cauſe? he ſaid, That he cannot particularly reply to the Cauſe, but he believes that much depends on the Diſpoſition of the People.—Being aſked, Whether there is not a Money Security generally given by the Zemindar to the Public, at the Time of letting him the Lands, and whether that Security has not ſome Advantage from the Tranſaction? he ſaid, There have been ſuch Securities given, and he ſuppoſes they have ſome Advantages—That beſides thoſe Debts created for ſhort Terms upon the Crops, moſt of the Landholders are indebted conſiderably to the Money Dealers. Being further aſked, What would be the Effect upon the Landed Intereſt of that Country, if all the Money Dealers were ſuddenly permitted to uſe the Rigor of Engliſh Proceſs and Execution, to exact the Payment of thoſe Debts? he ſaid, He believed it would diſpoſſeſs all the principal Landholders, and of courſe ſtop the Collections.—Being aſked, Whether it is not common in that Country, after ſome Delay, to add the Intereſt to the Principal, and making a new Capital, both bearing Intereſt? he anſwered, That it was the Cuſtom of the Country, but it had been ſtrictly forbidden and provided againſt in the Regulations he alluded to in his former Evidence.—Being aſked, What Intereſt it is uſual to take in that Country? he ſaid, By the Regulations 24 per Cent. is limited, but he believes it may be often exceeded according to the Exigency of the Borrower, but they cannot ſue for it in the Country Courts if it exceeded 24 per Cent, for if they take more, the Lender forfeits the Capital; but that the Colluſion of Parties does not make it eaſy to detect ſuch Practices, and that he thinks the Cuſtom has not been ſo much in uſe ſince the Regulation.—Being aſked, If there are not many old Debts (formed in that Manner) ſtill exiſting, and in which the Difference between the original Capital and the ſuperadded Intereſt will be very difficult to be aſcertained? he ſaid, He believes there are. The Witneſs having ſaid, That the Effect of Engliſh Proceſs and Execution would be generally ruinous to the Landholders; and being aſked, What would be more favourable in the ordinary Proceſs of the Country Courts? ſaid, That the Manner of Proceeding is more lenient; inſtead of iſſuing a Capias, they apply to their Vakeel or Agent; they enquire of him the Nature of the Debt, and of the Circumſtances attending it; they do not think of going into a peremptory Proceſs, but do all they can to accommodate the Diſpute; they give the Vakeel Time to write to his Principal, and receive his Explanation. If after all, the Complaint comes before the Court, it is contented with the Attendance of the Vakeel without Bail, and unleſs the Caſe is of a very particular Nature, they never require the Attendance of the Zemindar; and the Confinement of the Vakeel is frequently ſubſtituted for that of his Principal; and ſome Months of the Year, Zemindars are excuſed from all Proceſs of the Court; and ſuppoſing a Decree to be given againſt the Zemindar, his Lands could neither be ſequeſtered nor ſold, without a full Explanation of the Cauſe and Time of the Debt being incurred, and every Circumſtance being clearly repreſented to the Governor General and Council, and their previous Sanction obtained: The Governor General and Council in their Regulations have ſtrongly recommended, in all Caſes of the Kind, a particular Attention to be paid to the Situation of the Zemindars, as Perſons from whom Government was to receive its Revenues, ſo that Juſtice might be adminiſtered, and the Public Intereſt not be affected by it.—The Witneſs further ſays, That he has not heard that the monied Men have complained of the Want of a more vigorous and effectual Means for the Recovery of their Debts—That the Want of thoſe Means has not been felt as a general Grievance in the Country.—And being aſked, Whether the Uſe of ſuch Means would not contribute to lower the Rate of Intereſt in Bengal? ſaid, He thinks the Regulations as at preſent eſtabliſhed, would be fully anſwerable to that Purpoſe.—And being aſked, Whether if Engliſh Proceſs and Law, Civil and Criminal, was to pervade thoſe Provinces, the Reſidence of One or more Engliſh Attornies would not be neceſſary in moſt of the Towns? he ſaid, He ſhould think that one muſt be the Conſequence of the other.—Being aſked, Whether, beſides the Stipend paid by the Company to the Cauzees and Muftees of the Provincial Courts, they have any private Practice? he ſaid, They have, and in general, Deeds are not valid without their Atteſtation; beſides which, they act as Regiſters and Notaries Public.—That the Cauzees and Muftees are conſidered as Men of Learning and Knowledge in the Mahomedan Laws; that

they

ſhey are not conſidered as corrupt and venal.—Being aſked, Whether the Chiefs and Members of the Provincial Council, in general underſtand the Language of the Country? he ſaid, He knew it was the Caſe in the Council he had the Honour to preſide in, and he believes it was ſo in general.—Being aſked, After how many Years Service a Servant of the Company can attain a Seat in the Provincial Council? he ſaid, It is not limited to a certain Time, but he believes there are few Inſtances in which it has happened under 9 or 10 Years; ſuppoſing him to be a Writer of 16 Years of Age upon his Arrival in the Country, he will be 25 or 26 when he arrives to that Station.

William Luſhington, Eſquire, being then examined, informed Your Committee, That he reſided Ten Years in India, in the Service of the Company, and was Collector of Hougly—That Part of the Diſtricts over which he preſided, were in the Bengal Province, and Part in Oriſſa—That he had ſeveral Zemindars under his Authority, who did not exerciſe any Juriſdiction over the Inhabitants of his Diſtrict—That the Ryots or Inhabitants of the Land entertain a very great Reſpect for the Zemindar; who, in the Abſence of the Repreſentative of Government, is underſtood to be inveſted with the Care of the Diſtrict—That the Repreſentative of Government is in moſt Caſes the Perſon who has undertaken the Farm of the Diſtrict, and generally is inveſted with the Adminiſtration of the judicial Power—That in moſt Caſes a Reſerve is made to the Zemindar of certain Lands lying near to his Place of Reſidence, which are called Houſehold Farms; that there are alſo ſome other trifling Articles of the public Collection, which ſeem to have been inſtituted as a particular Compliment to the Zemindar, and are reſerved to him—That before the Engliſh Collectors were ſent into the reſpective Diſtricts, the Zemindar, when Farmer, exerciſed Civil and Criminal Juriſdiction, ſubject to the ſuperior Authority of the Diſtrict.—The Witneſs being then aſked, In whom the Supreme Judicature of the Diſtrict of Midnapore was veſted, before the Arrival of the Engliſh Collectors, and by what Authority the Civil and Criminal Judges were appointed? informed Your Committee, That to anſwer this Queſtion completely, it is neceſſary to go back to the Time when King Akbar reduced the Province of Bengal to the efficient Government of the Great Mogul—That to controul this ſubordinate Province with more Effect, Akbar divided the Powers of Government—That the Adminiſtration of the Criminal Juriſdiction, the Military Eſtabliſhment, and the Conduct of Political Affairs, were placed under the Direction of an Officer, intituled Nazim—That the Revenue Juriſdiction, and the Power of determining upon all Civil Cauſes, were confided to another Civil Officer, called Dewan—That the Two Departments were reſpectively independent—That Proviſion was made for the Expences of the Nazim, by Orders from Delhi, upon the Dewan; and poſitive Directions were given not to exceed their Orders, but in Caſes of great Emergency—The Civil Juriſdiction of Bengal was exerciſed by Officers appointed from the reſpective ſuperior Departments at Moorſhedabad—That this was the wiſe Plan of Provincial Government, marked out and purſued with Effect by Akbar; but the Vigour of Government declining under his Succeſſors, the Nazim of Bengal availed himſelf of the diſtant Situation of that Province from the Seat of Government, and gradually aſſumed to himſelf a State of Independence; but the Revolution made no Alteration in the Forms of Government—That the Office of Dewan continued in Poſſeſſion of all its Powers over the Revenue and Civil Juriſdiction of the Country, with this Difference only, that he neceſſarily became accountable to the actual Government—That the Diſtribution of the executive Powers of Government, deſcribed as above, has prevailed ever ſince; and that when the Witneſs left Bengal in 1773, the Provincial Officers for Criminal and Civil Juriſdiction received their Appointments from the Office of Nazim, and that of Dewan in Calcutta.—The Witneſs being then aſked, Whether any Appeal lay from the Determinations of the Phouſdar and Dewan of the Diſtrict, and to whom? ſaid, There were Appeals to the reſpective Supreme Departments at Moorſhedabad, the Metropolis; but that there were no preſcribed Modes for making ſuch Appeal; that if the Phouſdar ſentenced a Man to Death, he could not execute it without the Approbation of the Nazim—That the Nazim ſhould preſide in the Supreme Courts, but delegates his Authority to the Naib Nazim—That the Dewan preſides in the other Department; and that their Sentences were final—That the Adminiſtration of the judicial Powers, and the Modes of proceeding already deſcribed, were continued from the Period when the Office of Dewannee was granted by the Mogul to the Company, until the Time when the Company's Servants were ſent to take Charge of the Collections of the Revenues of the Country—When the Appointments of the Company's Servants to the ſeveral Diſtricts in which the Provinces of Bengal, Bahar, and Oriſſa were divided, took Place, the Object of that Appointment was to examine into the State and Extent of the public Collections, and into the general Condition of the Diſtrict, with a View to aſcertain whether, by extending Cultivation, or by reducing Charges, any Improvements might be made in the ſame, without increaſing the Demands upon the Occupiers or Ryots—That the Appointment was declared to be of a temporary Nature, and to expire at the End of the Year; that the Utility of this Inſtitution having been experienced, it was affirmed at the End of the Year; and upon the Acceſſion of Mr. Haſtings to the Government, various Regulations were eſtabliſhed, to direct the Adminiſtration of the Judicial and Civil Powers in the Provinces—That the Judicial Powers were exerciſed in the firſt Inſtance by a Court, conſiſting of the native Officers of Juſtice, the Cauzees and Muftees, whoſe Proceedings were ſubjected to the Superintendance and Controul of the Collector; from whoſe Deciſions likewiſe there lay an Appeal to the ſuperior Courts of Sudder Adaulut, exerciſed by the Governor General and Council—That the Controul of the Criminal and Civil Judicature of the Diſtrict, was in the Collector of the Revenues of that Diſtrict; but that there was a local definitive Juriſdiction given to the Farmer, to decide upon all Cauſes of Meum et Tuum, under the Value of Ten Rupees.

That the Cauzees and Muftees were appointed by the Sudder Adaulut, to prevent any Dependency upon the Collector—That they had a fixed Salary, and were not entitled to any Fee or Perquiſite whatſoever—That with reſpect to their Qualifications, the firſt Conſideration was, their Competency in Point of Knowledge of the Laws and Cuſtoms of the Country—That moſt of them were Men of Learning and Education, and of a reſpectable Order in Life; and that their Appointments were not for Life—That the Witneſs does not know at whoſe Recommendation they were appointed or diſplaced; but that they came into the Diſtricts with Appointments from the Superiors of their own Order in Calcutta, and the Collector was apprized by the Governor and Council of ſuch Appointments—That no Inſtances of their being diſplaced, happened under him as Collector of Hougly, or in any other Diſtrict to his Knowledge within the Twelve Months he reſided there, and that the Collector had not the Power of removing them.—The Witneſs being aſked, Whether at the Time of the Committee of Circuit of Bengal, the native Zemindars were not obliged to become Farmers under Government of their own native Zemindaries or Diſtricts, at high advanced Rents, or whether, in caſe of Refuſal, they were not diſpoſſeſſed of their Zemindaries, and the ſame let to the beſt Bidder? anſwered, That the moſt effectual Methods were taken to aſcertain by Publication the Rent and Value of the ſubordinate Farms in the Diſtrict of Hougly; that, when the Competition produced by this Publication operated to ſettle the fair Value of ſuch Farms, they were tendered to the Zemindar upon ſuch Terms, but that their Acceptance of ſuch Offers was not to preclude them from a Compenſation, which was conſidered as due to their Rights as Zemindars; that this Compenſation, in the Event of taking ſuch Farms, was appropriated as a Security for the Payment of their Rents; but if the Farms of their Zemindary were ultimately let to a Stranger, in that Caſe, a Stipend was ſettled upon the Zemindars at the Ratio of 10 per Cent. upon the neat Collection of ſuch Farms—That in ſome Parts of the Diſtrict, the Zemindars accepted of the Farms within the Zemindary on the Terms above deſcribed, but that in other Parts they did not—That the Perſon who in Bengal is called a Farmer under Government, does not rent and actually cultivate the Soil, but only rents the Revenues and Dues iſſuing therefrom to Government—That he contracts to pay a certain Sum to Government for the Collections ariſing from that Diſtrict, but is preſcribed in making ſuch Collections, by a particular Statement of the Rights and Dues which he farms from Government, and which he is prohibited from exceeding.—That no ſpecific Sum is allowed for his Trouble and Reſponſibility out of the Surplus Revenue, but that the Profits of the Farmer, which muſt form his Inducement to take the Farm, ariſe from Two Sources, an Extenſion of Cultivation, and ſuperior Management and Œconomy in the Mode of collecting the Revenue; but the Witneſs does not underſtand that the Farmer is precluded from diſpoſing of the Lands farmed to him to the beſt Advantage, which may prove an additional Source of Profit to him; and he conceives, that the Farmer of the Revenues could, at his Pleaſure, diſpoſſeſs the actual Cultivator or Pottahholder of the Land of which he farmed the Revenues, unleſs he was reſtricted from the Exerciſe of ſuch Right, by a Pottah giving a ſpecific Term—That a Pottahholder, in the Provinces, is to be conſidered merely as an Occupier, entitled only to ſuch Term, and ſuch particular Advantages, as his Pottah entitles him to—That his Pottah is granted by the Repreſentative of Government in the Diſtrict, under whatever Denomination, and he believes is counterſigned by the Zemindar; and that the Payments reſerved by theſe Pottahs, are paid in whole to theſe Farmers of the Revenue.—Being aſked, Whether ſuch Farmer does not in many Inſtances poſſeſs and exerciſe coercive Powers over the Perſons and Properties of the Ryots, or loweſt Claſs of Occupiers? the Witneſs ſaid, He is not inveſted with ſuch Powers, nor does he believe they are exerciſed, and that he does not recollect an Inſtance in his Collectorſhip. And being aſked, Whether, in general, he does not conſider the Farmer in reſpect to the Ryots as ſtanding in the Place of Collector, and by what Methods he could, on their Refuſal, enforce Payment? he ſaid, That he certainly is the authorized Collector; and that a Regulation was eſtabliſhed in the Dewannee Office of Hougly, by which a particular Regiſter was to be made of all the Leaſes from the Farmer to the Subtenant, with a View to facilitate an Enquiry into Matters of Diſpute between the Farmer and the Ryot; and that the Farmer was directed, upon any Difficulties ariſing between him and the Ryot on the Adjuſtment of Accounts, to make his Complaint to the Dewan, to ſettle ſuch Diſputes by a Reference to the Leaſe and to the Accomptant of Payments, as entered in the Office of Kirchumchally.—The Witneſs being aſked, Whether, when the ancient hereditary Zemindar was conſtrained to rent his hereditary Land upon the new Terms, he was from thenceforward conſidered as a mere Revenue Farmer and a Servant of Europeans; or whether he acquired any new Powers, which he did not before poſſeſs? ſaid, He conſidered him as ſtanding in two Capacites, that of Zemindar and Farmer; and that he does not think he acquired any new Powers in his Capacity as Farmer; that he did not poſſeſs as Zemindar of the Lands.—The eſtabliſhed Regulation to guide the Conduct of Farmers, having rather curtailed than increaſed, the Powers exerciſed by the Zemindars, when they were Renters of their own Land.—He further ſaid, That moſt of the Lands in the Government of Bengal were put to the Option of the ancient Zemindar.—Being aſked, Whether, if Violences were committed by Farmers or Zemindars farming their own Lands, or by the Government's Collectors, the Country Government afforded any ſufficient Mode of Redreſs? he informed Your Committee, That the Office of Dewannee was the appointed Place for receiving ſuch Complaints:—That when the Zemindars were Farmers under the Company, of their Zemindaries, he conſidered them as Contractors with the Company in their Capacity of Dewans, for a certain Rent, to be paid out of the Lands of their Zemindary: —Then being aſked, Whether, as ſuch, they were conſidered as Servants of the Company? the Witneſs ſaid, That he does not conſider the Farmer of any Revenue in that Country as a Servant of the Company, any more than he ſhould conſider a Tenant in England, to be a Servant of his Landlord; and that he conceives that the Company in their Capacity of Dewan, contract with the Zemindar for the Payment of a certain Sum, which continues him in the Poſſeſſion of his Zemindary during the Term of the Contract—That the Zemindar, when conſtituted Farmer by the Company, is as liable to account according to the Terms of his Contract, as any other Farmer would be.—The Witneſs being aſked, Whether the Payments of the Zemindars to the Company, are ſtipulated Rent on Contract, or Tax and Impoſition, according to our Ideas of Taxes in Europe? ſaid, He conſidered it as a Contract between the Company and the Zemindars?—And being aſked, Whether ſuch Farmer is the Occupant or Tenant of the Land himſelf, or the Collector of the Rents and Revenues thereof due to the Company?—he ſaid, He does not conceive that he is the Occupier of the Land himſelf, but as he does not act under a fixed Salary, but by his Contract or Leaſe, he is ſubject to Loſſes as well as Gain.—he further added, That the whole Cultivation of the Diſtrict is under the Direction of the Farmer.—That he has a Right to cultivate any Land in his Diſtrict that is uncultivated.—That particular Encouragement has been held out to encreaſe ſuch Cultivations; and that in new Cultivations the Farmer has the Profit for the Term of his Leaſe.

Major James Rennell being examined, informed Your Committee, That he reſided in Bengal Thirteen Years, from 1764 to 1776, both incluſive—That he bore a Commiſſion in the Corps of Engineers, and held a Civil Employment of Surveyor General—That he made a Survey of the Province of Bengal himſelf, and that the general Survey of all the Provinces between Bengal and Delhi, was conducted under his Direction—That he is acquainted with the Manners and Cuſtoms of the Natives.

Being aſked, What Inconvenience it would occaſion to the Zemindars or Farmers, if they became ſubject to the Attendance of Summonſes of the Supreme Court of Judicature of Calcutta? he informed Your Committee, That from the great Diſtance at which moſt of the Zemindars are ſituated from the Court of Juſtice, it muſt neceſſarily be attended with great Delay, Expence, and Vexation; and the Mode of proceeding totally repugnant to their Feelings—That it would ruin their Credit with the Money Lenders, and occaſion ſo great a Conſternation throughout their Diſtrict, as to ſuſpend all the Operation of the Civil Government—That no more Money would be collected in the Diſtrict; for the Ryots ſeeing their Hereditary Superior removed, would naturally apprehend that they would be obliged to pay their Rents over again to a Stranger, who might ſucceed him.

Being aſked, In the Courſe of his Journies in the Provinces of Bengal, Bahar, and Oriſſa, what Degree of Reſpect did the common People pay to their reſpective Zemindars? ſaid, That the common People regard their Zemindars as a Kind of Sovereign in the great Zemindaries, ſuch as Radſhi, Burdwan, Dinagepore, &c. and that in the ſmaller Zemindaries, they treat them with great Reſpect, and conſider them as their immediate Superior—That ſome of the great Zemindars live in princely State.

Being aſked, What would be the Effect of a Warrant ſerved by Engliſh Bailiffs on one of thoſe great Zemindars? the Witneſs ſaid, He apprehends the Bailiff would fall a Victim to the Rage of the People, in attempting to ſerve the Writ—That he remembers an Inſtance of an Attempt to ſerve a Warrant on a Zemindar of an inferior Diſtrict, whilſt adminiſtring Juſtice in his Cutchery—That the Attendants of the Zemindar fell upon the Bailiff, and ſeverely wounded him—That the Zemindar immediately came to the Chief of the Province, and declared he was ready to ſubmit to his Authority, but did not underſtand that he was amenable to any other Power.—Being aſked, If ſome of thoſe great Zemindaries are not held by Women? he ſaid, That of Radſhi, one of the largeſt in Bengal, containing about 13,000 ſquare Miles, and one of the richeſt in Bengal, and equal in Size to the 5th Part of England and Wales; and that there are ſeveral others held by Women; but that theſe Women never appear in the public Functions of the Zemindary, nor on any other Occaſion—That under the Country Government, they would not be liable to perſonal Arreſt, for it would bring Diſgrace upon the whole Caſt—That the perſonal Arreſt of the Rannee of Radſhi would be conſidered as one of the groſſeſt Violations of their Cuſtoms that could poſſibly happen.

That the Military Force of the Zemindars, under the preſent Government, is very limited; that under the former they maintained a conſiderable Force—That the Inhabitants in general have a moſt perfect Submiſſion to the Will of their Zemindar—That if the Body of Zemindars ſhould be diſcontented, they might, at a Conjuncture favourable to them, have ſufficient Influence to excite the Inhabitants to revolt.

That it is very common for People in our Provinces, living upon the Borders, when they find themſelves grievouſly oppreſſed by our Collectors of Revenue, to quit their Houſes, and go into Countries not ſubject to our Juriſdiction.—Then being aſked, Who are the Collectors of the Revenue in the Province of Purnea? he ſaid, He does not know; but in 1765, paſſing through that Diſtrict, he obſerved Houſes uninhabited, and Lands uncultivated; that he enquired the Cauſe, and was informed, that they had quitted their Habitations on account of the Exactions of the Collectors—That during the Government of Coſſim Ali Cawn, 30,000 Families quitted the Province of Rungpore, a very fertile one, in One Year, and ſettled in Coos Bayhar, the adjoining Province, but then not ſubject to the Juriſdiction of the Nabob.—Being aſked, Whether it was cuſtomary for the Inhabitants of the Frontiers of thoſe Provinces adjoining, but not ſubject to Bengal, to come and ſettle in the Bengal Provinces, in caſe of Oppreſſion from their Rulers? he ſaid, No Inſtance has come to his Knowledge—That the Extremities of Bengal that he has been in, are chiefly bounded by Hills or Woods, and that the Mountaineers having no fixed Property, had often plundered the Inhabitants of the Plains—That as to the Bahar Province, he has not been much in thoſe Parts.

Being then aſked, Whether the Cauzees and Muftees, and Indian Profeſſors of Law, are in evil Repute in that Country? he ſaid, He does not recollect hearing any Thing for or againſt their Characters—That he has often been in their Company—Was told the nature of their Office, and has ſeen them treated with Reſpect.—Being aſked, Whether that Reſpect appeared to him to be the Effect of Fear or of Opinion? he ſaid, Of Opinion—That the People of Bengal treat all the Learned and Religious with Veneration, a Veneration not eaſily conceived by thoſe who have not been in that Country, which would hardly be paid to them, if they were conſidered as generally corrupt.

Being aſked, If the Natives were diſſatisfied with the Courſe of Juſtice, as adminiſtered according to their own Laws and Uſages? he ſaid, By no Means; and by what he has learnt from them, the Adminiſtration of Juſtice in their Country Courts, is juſt the ſame now as it was under the Mahomedan Government—That he believes they do not deſire a better; nor does he ſuppoſe they ever did, becauſe they are ſo exceedingly attached to their own Manners and Cuſtoms, that they have ſcarce an Idea of a better Mode.—Being aſked, Whether they are not conſidered as entirely under the Influence of Engliſh Gentlemen, who preſide in the Provincial Courts? he ſaid, They are in common with all the reſt of the Inhabitants of the Province; but that the People do not complain of not obtaining Juſtice, on account of the Influence of the Provincial Council over the Cauzees and Muftees.

Then being aſked, Whether Juſtice has been obſtructed by any Influence or Power whatever? he ſaid, He certainly has heard of ſuch Reports, but he knows of no Fact that has happened within his Knowledge.—Then being aſked, Whether Engliſh Gentlemen have experienced Marks of popular Diſpleaſure during their Government, or at their Departure? he ſaid, He has heard of ſuch Things.—And being aſked, Whether he believes it? ſaid, Yes; but that he does not think it general.—Being aſked, If he knows of any Engliſh Gentlemen who have been particularly reſpected and valued for their good Conduct and correct Adminiſtration of Juſtice in their reſpective Diſtricts? he ſaid, He knows of ſome whoſe Memories are cheriſhed in the Provinces in which they preſided—That there are Gentlemen now reſident in England, who receive almoſt every Year Letters from Natives, formerly ſubject to their Juriſdiction, merely on the Score of Gratitude.—Being aſked, Whether he knows of any particular Chief of a Provincial Council, who has been lately much reſpected for his upright Adminiſtration, and general good Conduct towards the Inhabitants? He ſaid, Mr. Boughton Rouſe, when Superviſor of Radſhi, had the higheſt Character amongſt the People of the Province; and it was ſaid amongſt them, that he was removed becauſe he would not increaſe the Collections—That he has alſo heard great Encomiums upon Mr. Harwood, Chief of Dinagepore, who was almoſt adored by them; and that Mr. Baber, Chief of Muxadabad, was held in the higheſt Reſpect: And that he has likewiſe heard fair Characters of other Chiefs and principal Officers, beſides thoſe mentioned, after they had left their Diſtricts?—Being aſked, Whether he has not heard that ſome of the Engliſh Gentlemen have abuſed their Authority, to extort Money from the Natives in their ſeveral Diſtricts? He ſaid, He has.—Then being aſked, If ſuch Reports have been generally believed? he ſaid, He cannot poſſibly ſay how far they were believed.—Then being further aſked, Whether he believed them? he anſwered, Yes.—Being aſked, Whether thoſe Reports prevailed ſince the Arrival of the Judges in Bengal or before? he ſaid, He could not charge his Memory with the Time.—Being aſked, If they have ceaſed ſince their Arrival? He ſaid, he could not ſpeak to that; but that he apprehended that the Judges can have made no Alteration in that Matter, ſuppoſing it to have exiſted.—Being aſked, If he had heard, that Engliſh Gentlemen preſiding in the Dewannee Provincial Adauluts, have accepted of Bribes from the Parties for their Judgment in Cauſes tried before them? he ſaid, No.—Being aſked, What are the Salaries of Gentlemen preſiding in the Provincial Dewannee Adaulut; or if they have any for ſuch particular Duty? he ſaid, He knows that the Members of the Provincial Council receive a Salary of from 6 to 800 Rupees a Month, but does not know whether there is any particular Salary for that Duty.—Then being aſked, If he knows of any Profits ariſing to them from their Judicial Office? or, If he ever heard of any Gentlemen in the Provincial Councils, ſelling his Profits ariſing from his Adaulut to any other for a ſpecific Sum? anſwered, No, to both Queſtions.

Your Commitee conceiving it material to be informed of the Extent of the Country, Numbers, and Deſcription, Religion, Cuſtoms, and Manners of Perſons affected by the Subject of their Enquiries, have examined ſeveral Gentlemen on theſe Points: And were informed by Major Rennell, late Surveyor General to the Company in Bengal, That from Patna to Calcutta is 400 Miles by Land, and 514 by Water; that the Journey muſt be made by Water, during the rainy Seaſon, which, as far as regards the Swelling of Rivers, continues Six Months; that from the Extremity of the Bahar Province to Calcutta is 540 Miles by Land, and 650 by Water; that from Chopra to Calcutta 436 by Land, and 548 by Water; from Calcutta to the Extremity of Oriſſa is 180 Miles; that from Goalpara, the North Eaſtern Extremity of Bengal, to Calcutta, is 360 Miles by Land, and 520 by Water; that from Chittigong to Calcutta is 360 Miles; that from Patchete, the Weſtern Extremity, —185 Miles; from Calcutta to the Northern Extremity of the Radſhi Province, is by Land 290 Miles, by Water 500; and that from the Extremity of the Purnea Country to Calcutta is 324 Miles by Land, and 425 by Water; that in Bengal, Bahar, and Oriſſa, there are Ten Millions of Inhabitants; that the greateſt Proportion of the Ten millions live at a Diſtance from Calcutta; that the Proportion of Gentoos to the other Inhabitants is Four out of Five.

Mr. Hickey informed Your Committee, That the Number of Britiſh Houſeholders at Calcutta, within the Maratta Ditch, is about 400.

Harry Verelſt, Eſq. informed Your Committee, That he had reſided in India Twenty-one Years; that he had been Governor of Bengal Three Years, and Ten Years in Council; that there are in Bengal, and its Dependencies, at leaſt Seven millions of Inhabitants; that Eight out of Ten were Gentoos, and the reſt Mahomedans; that the Number of Europeans were Four or Five thouſand; that the Inhabitants of Calcutta are now reckoned at Six or Seven hundred thouſand, but that in 1750 or 1751, when a Calculation was made, on account of a Famine, they amounted to between Four and Five hundred thouſand.

Major Rennell further informed Your Committee, That travelling is in India more inconvenient and expenſive to Men of Rank, than in any other Nation, but to low People leſs ſo; that travelling under the Cuſtody of a Bailiff, would be much more inconvenient to a Gentoo than to an European, and that the Expence would be neceſſarily greater.—He further ſaid, That Correſpondence is more expenſive there than in Europe; that there is a conſtant and regular Poſt from Calcutta to the Frontiers of Bahar, another to the Frontiers of Oriſſa, a Third to the City of Dacca, and Two others branching out of the great Road to Dinagepore and Burdwan; that beſides theſe, there are no Croſs Poſts, nor any convenient Mode of Communication; that to forward a Letter from Calcutta to the North Eaſtern Parts of Bengal, would coſt 15 Rupees, becauſe they ſend Two Meſſengers with a Letter of any Conſequence, although the Poſt goes to Patna; a Letter to Betteah, which is out of the Road, muſt be ſent by a ſpecial Meſſenger.—Mr. Hickey alſo ſaid, The Charge of bringing up Witneſſes to the Supreme Court at Calcutta, is very much increaſed by the Diſtance of the Place where the Cauſe of Action ariſes; beſides which, Travelling is much more expenſive there than in England.

Harry Verelſt, Eſquire, further informed Your Committee, That the Gentoos are more attached to their Manners and Cuſtoms than any other People upon the Face of the Earth—That they would ſuffer Death rather than any Indignity to their Caſt—That from every Knowledge he had of the Gentoos, he was perſuaded, that the Mahomedans, who have uſually carried their Conqueſts by the Edge of the Sword, on all former Occaſions, when they arrived in Indoſtan, found it abſolutely neceſſary to ſheath the Sword, from a thorough Conviction, that they would deluge the Country with Blood before they could convert one Gentoo to their Laws and Religion; and that they therefore wiſely became the Guardians and Protectors of the Hindoo Religion; and that he conceives the Country to have been preſerved in that State to the Time he left it in the Year 1770—That theſe religious Rights and Inſtitutions, of which they are ſo tenacious, are not confined to their Places of Worſhip, but extend to every Occurrence of Life—That he begged to refer to his Book, publiſhed in 1772—And being aſked, Whether he had any Reaſon to alter his Opinion ſince the Publication of that Work, from ſubſequent Information? the Witneſs informed Your Committee, That he was far from having altered his Opinion, being now thoroughly convinced, that what he then wiſhed to impreſs on the Minds of People, regarding the Impoſſibility of introducing the Engliſh Laws into Indoſtan, has been but too fatally realized—That the Hindoo Religion tends to keep its Followers in a State of Separation from Strangers; for it admits of no Converts, and conſiſts of more than Ninety ſeparate Sects or Caſts, as they are called—That many of theſe are ſubdivided again; but that they may be all properly termed Hereditary Religions, as they are preſerved diſtinct from each other, and each is governed by its own peculiar Laws—That theſe Laws are fundamentally taken from the Bede; but that their Cuſtoms and Manners are alſo conſidered as Laws, and held as ſacred as the Bede itſelf—That a very conſiderable Part of theſe Manners and Uſages conſiſt of corporeal Purities and Impurities, according to their Ideas, and which would not be thought ſo by us; and that there are ſtrong Inſtances mentioned in the Witneſs's Publication of 1772, from Facts of his own Knowledge—That ſome of theſe Impurities may be contracted, though ſuffered involuntary; and that, as an Inſtance of it, an Hindoo who had a Spoonful of Beef Broth forced into his Mouth, could never be reſtored to his Caſt; that the Witneſs, ſupported by all the Influence of the Engliſh Government, uſed every Means to reſtore him, without Effect:

That on Lord Clive's Arrival in India afterwards, they applied to the Bramins and Men of eminent Rank, who were induced to aſſemble at different Times at Kiſnagur, at Burdwan, and at Calcutta, from the Period of 1760, when he loſt his Caſt, to 1766, when the laſt Aſſembly was held; that though their Inclination made them wiſh it, they could not, after conſulting all their Records, find an Example to juſtify their reſtoring him to his Caſt; that he never was reſtored, and died of a broken Heart.—That in the Loſs of Caſt, is included, as to Religion, a total Excommunication; and as to Cuſtoms, Manners, and Society, that no one of the ſame Caſt can aſſociate, or hold any Intercourſe with him, not even his own Wife and Children, without loſing their Caſt—That Profeſſions are uſually attached to Caſts, though there are Exceptions; but that a Man who has loſt his Caſt, cannot follow any Trade or Profeſſion, becauſe he is deprived of all Society, and avoided as a Leper—That having loſt a reputable Caſt of a higher Order, he cannot be received into a lower; but muſt, with his Deſcendants (though Inſtances in the Time the Witneſs reſided in India were very rare) herd with the Hallachores—That the Hallachores are the loweſt Claſs of People, who clear away the Ordure, and remove dead Bodies, and are occupied in Employments which would defile any other Sect—That Hindoos of a high Caſt would prefer Death to the Loſs of Caſt—That inferior Degrees of Pollution, which do not involve Loſs of Caſt, require expenſive and troubleſome Expiations or Purifications; ſuch as, long Pilgrimages, Expences to Bramins, Charities, Fines, and Forfeitures, and frequent Ablutions—That the Effect of throwing Perſons of high Caſt into a common Priſon with Perſons of other or no Caſt, would be, the Witneſs thinks, an unavoidable Loſs of Caſt; for no Sect of Hindoos can eat or drink with any Perſons who are not Hindoos, without Loſs of Caſt; at leaſt, it would expoſe the Perſon and his Family to great Indignity and Diſgrace.

The Witneſs being then aſked, Whether it was uſual, in the Time of the Prevalence of the Mahomedan Government in Bengal, to throw Men of high Caſt into the common Gaol mixed with others; or whether any Man, merely by ſwearing a Debt, might obtain a Power of ſeizing ſuch a Perſon, and of committing him to ſuch Gaol, if he did not fine Bail? informed Your Committee, That there could be no Inſtance of it; and that he did not recollect any ſuch Perſon being ſent to a common Gaol for Debt—That the Method of compelling a Man to pay a Debt under the Mahomedan Government, would be by putting a Guard over him in his own Houſe—That there was a Cutchery for Vagabonds; but he does not recollect any Priſon for Debtors; that in Caſes of Debt, the Courts, upon Application, granted a Guard to confine the Debtor to his Houſe, who pays the Guard a certain Rate per Diem whilſt on that Service; that this Guard did not always attend the Debtor when he went abroad; and that cloſe Confinement, ſuch as is practiſed in England, would in that Climate, deſtroy the Priſoner in a ſhort Time.—The Witneſs then being aſked, Whether it was not cuſtomary, during the Time of the Mayor's Court at Calcutta, by the Proceſs of that Court, to arreſt and impriſon without Diſtinction of Caſt, Hindoos ſubject to the Juriſdiction of that Court? anſwered, That he did not underſtand that the Natives of India were, by the Charter, in reſpect to Debts with each other, amenable to the Mayor's Court, unleſs by mutual Conſent; but in Caſes of Suits with Europeans reſident in Calcutta, he believed they might—That he does not know whether any Hindoos were confined in the common Priſon; but is inclined to think that none were for Debt.—Then being aſked, Whether the inferior Caſts look upon the higher with Reſpect and Reverence, and conſider Injuries done to them as national Diſgraces; or whether they are not pleaſed to ſee Mankind ſo levelled under the Hand of Government? the Witneſs anſwered, That the Reſpect and Reverence paid by the Inferior to the Superior is, he believes, in no Part of the Globe more attended to than in Indoſtan; for he is perſuaded, that an Inferior, on any Occaſion of an Inſult to a Superior Caſt, would conſider it as an higher Degree of Inſult than to one of his own Caſt, owing to the great Reſpect of the Inferior to the Superior.—The Witneſs further ſaid, That an Hindoo's accepting a Place under an European, would not affect his Caſt, nor his being employed to arreſt another by virtue of a Proceſs, unleſs he was of a different Caſt, and eat and drank with him; nor would touching a Man of inferior Caſt make him loſe his Caſt; but it would oblige him to undergo Purifications.—Being aſked, What Inconvenience would happen to a Gentoo of high Rank, if he was arreſted by an Officer of the Supreme Court, and removed to a great Diſtance from his Habitation and Temple of Worſhip? the Witneſs anſwered, Diſgrace and Ruin to himſelf and Family.—And being further aſked, If a Man of inferior Caſt was employed to arreſt and lay hold of one of a ſuperior Caſt, what would be the Conſequence to each of them with regard to their Caſts? the Witneſs informed Your Committee, That the mere Act of Arreſt would not bring on any Pollution; but ſhould he interrupt, or prevent him in the Performance of the Ceremonies of his Caſt; ſuch as, by intruding upon him during his Devotions, by touching him at the Time of his Meals, or after his Waſhing, and in a Variety of other Inſtances, it would be a Pollution.

Mr. Baber informed Your Committee, That the Gentoos are ſo prejudiced in Favour of their own Cuſtoms and Manners, and of that Government under which they have been brought up, that they have no Idea of, much leſs a Wiſh for, any Alteration—That the Laws of England are quite oppoſite to their Manners, Cuſtoms, and Religion—That their Laws are ſo intimately connected with their Religion, that a Stranger cannot be eaſily acquainted with them—That to acquire ſufficient Knowledge, a long Reſidence, and a cloſe Application to the Study of their Laws, is abſolutely neceſſary—That even then, the learned in Mahomedan and Hindoo Laws muſt, on many Occaſions, be conſulted—That the Connexion of the Laws of that Country with its Religion, muſt render the Introduction of Foreign Laws peculiarly offenſive to its Inhabitants; and that, in order to introduce them, their Cuſtoms, Manners, and Religion, muſt be changed—That the Inhabitants would be much diſpleaſed to ſee the Power and Influence of the Zemindars deſtroyed, by the Equality which the Exerciſe of Engliſh Law Courts would produce—He farther informed Your Committee, That during Seventeen Years Reſidence, he never ſaw the Wife, or Women, of any Man of Rank or Zemindar—That if any European, however high his Rank, was ſo ignorant of the Cuſtoms of India, as to deſire to ſee the Wife of a Rajah or Zemindar, if it was poſſible for the Rajah or Zemindar not to conceive it to be a ludicrous Requeſt, he would receive it with Aſtoniſhment and Horror—That Women never walk in the Streets, but are carried about in cloſe Carriages.

Mr. Vanſittart being further examined, informed Your Committee, That it is impoſſible that any People can be more attached to their particular Cuſtoms, religious Ceremonies and Obſervances, than the Gentoos—That it is notorious, that in the Time of the Famine, in 1770, many Gentoos choſe rather to be ſtarved, than to eat the Fleſh of a Cow—That he remembers at Dinagepore, of which Diſtrict he was then Superior, an Inſtance of a poor ſtarving Wretch, of the lower Claſs of People, who ventured to eat a little of the Fleſh of a Cow, that had been killed by Accident—That he was brought to him as a Priſoner, by the Rajah; who, with the other principal Gentoo Officers, were very earneſt with him, that he ſhould be puniſhed with the greateſt Severity—That he thinks they demanded his immediate Death—That theſe religious Obſervances tend to keep the Gentoos entirely in a State of Separation from Strangers—That he never knew an Inſtance of a Convert being admitted to the Gentoo Religion—That their Cuſtoms and Manners operate upon them as more than Laws, becauſe they have a religious Attachment to them; and that, in Fact, they regulate their Conduct—That it is the invariable Cuſtom for Hindoo Women of any ſuperior Diſtinction, to be ſecreted from the public Eye—That during his Fifteen Years Reſidence, he never ſaw a Woman of any Rank, ſuch as the Wife of a Rajah, or Zemindar—That he cannot exactly ſay to what inferior Claſſes this State of Separation deſcends; but that he thinks, certainly down to the Wife of a reputable Merchant.

Major Rennell alſo informed Your Committee, That the Gentoos are attached to their Cuſtoms and Manners in a remarkable Degree; that they tend to keep them ſeparate from all the reſt of the World—That is very much againſt their Inclinations to abſent themſelves from their Places of Reſidence, and that few Occaſions can make them remove to any Diſtance from their native Spot—That he conſiders the Inhabitants of Bengal, Bahar, and Oriſſa, as a People in a State of Civilization, hardly inferior to that which prevails in Great Britain, in reſpect to Manners; that their behaviour to each other is exceedingly polite; that they diſcover nothing of that Ferocity viſible among ſome of the lower Orders of Men in Europe; that they are exceedingly ſervile to their Superiors, and behave with Mildneſs and Lenity to their Inferiors, as far as relates to their exterior Deportment; but that the lower People, when they have had the Aſcendency over Europeans, have always behaved with Inſolence—That even ſince the Provinces have been in total Subjection, the Inhabitants have manifeſted the utmoſt Impatience under our Government. That in the Courſe of his Duty as Surveyor General, he was often attacked by People belonging to Zemindars, partly, he imagines, with the View of plundering him, and partly becauſe they looked upon him as an intruding Stranger.—That he does not imagine there are a Thouſand Natives who underſtand Engliſh, and that they live in the principal Cities, and ſerve as Interpreters to Europeans—That Hindoo Women never appear in the public Functions of their Zemindaries, or on any other Occaſions; that it would bring diſgrace upon their Caſt—That during his Thirteen Years Reſidence, he never ſaw a Rajah or Zemindar's Wife, excepting One who was going to burn herſelf on her Huſband's Funeral Pile—That he remembers an Inſtance when an Officer of Government, being about to meaſure the Ground on which an Hindoo's Houſe ſtood, after ſome Scuffle, broke open the Door of the Zenana or Women's Apartment, upon which the Maſter of the Houſe immediately deſtroyed himſelf by cutting his Throat; and that he has alſo heard, upon the very beſt Authority, of another Inſtance, in which, an Hindoo's Houſe being on Fire, and a Multitude aſſembled in the Street, the Maſter of the Houſe, rather than expoſe the Women to the View of the Multitude, thruſt them into an inner Apartment, and was there burnt to Death with them.

There being at this Time a Bramin in England, who is a Subject of a Gentoo Government, Your Committee judging it to be the moſt authentic Source of Information, concerning the Uſages and Religion of the Hindoos, requeſted his Attendance; and the Particulars of his Examination being interpreted by Charles William Boughton Rouſe, Eſquire, a Member of Your Committee, are—That his Name is Honwontrow—That he comes from Poonah, a Gentoo Government, of which Sittarah is the Capital—That it is governed by the Peſhwah, who is a Bramin—That he is come to England on the Part of Ragenaut Row, with Letters to the King, and the Eaſt India Company—That he is a Bramin—That his Caſt, as well as all others, is obliged to obſerve particular Rules and Modes of Life—That the Object of Worſhip is alike to all Caſts; but that there are many Sects and Diſtinctions, each of which has its peculiar Rules—That there are Four principal Caſts; and within theſe, there are a great many others; and that it is criminal for any Gentoo, to tranſgreſs the Rules of his particular Caſt—That he may loſe his Caſt entirely, or according to the Nature of the Offence; it may admit of Expiation.—Then being aſked, Whether ſome of theſe Expiations are not expenſive and troubleſome? he ſaid, Without Expence and Trouble how can Expiation be made?—That it would be proportionable to the Crime; for Inſtance, Brimhatta, or killing of a Bramin; Strehatta, or the killing of a Woman; Barhatta, or the killing of a Child; Gowhatta, or the killing of a Cow; are the Four great Offences that require the moſt rigorous Expiations; and the Degree of Criminality is nearly alike.—That he muſt make one Diſtinction, that it can only be done by Conſent and Direction of learned Bramins—That in caſe of a rich Perſon, the Expiation is large Sums given in Charity; if of low Condition, long Pilgrimages, as far as Twelve Years, without Shoes, and naked Feet, would be enjoined.—That by the Laws and Cuſtoms of the Gentoos, a Bramin might poſſibly commit ſuch a Crime, as to incur the Puniſhment of Death; for Inſtance, Wilful Murder; but there is one Thing, it is not right to hang a Bramin; if he is to be put to Death, it ſhould be with a Sword. At the ſame Time the Witneſs added, That he never heard of an Inſtance in which, under an Hindoo Government, a Bramin was put to Death.—Then being aſked, Whether there is any other Crime, beſides Wilful Murder, for which a Bramin can be puniſhed with Death? he ſaid, The Prince may take his Life for ſome great Breach of Truſt, or Crime againſt the State; but hanging would not be the Puniſhment—the Puniſhment of Death is not inflicted for ſmaller Matters; but what other Crimes can merit Death!—That hanging is, by the Hindoos, conſidered as a great Pollution; and further, it is the Belief of the Hindoos, that a Man who ſuffers Death by the Sword, has Pardon for his Offences; but if he dies by the Halter, he dies with his Sins upon him—That a Perſon dying by Suicide, or by the Halter, cannot have his Funeral Rites performed—That the Body of a hanged Bramin is ſo polluted, that another will not touch it.—And being aſked the particular Reaſon? the Witneſs ſaid, How can I tell you the Reaſons for it? ſuch is our ancient Religion—It is a general Principle of Faith, that an Hindoo ſhould die placed upon the Earth.—Being aſked, Whether there are not Crimes by which Hindoos may loſe their Caſt? he ſaid, There are; for Inſtance, that he, being a Bramin, could not eat any Thing prepared by the Hands of the Perſee (who was then ſitting by him); that if he did, he ſhould loſe his Caſt; and that if he had done it of his own free Will, it could not be expiated; that, though a Gentoo, ſhould have reſiſted, if he be forced violently into an Act of Impurity, it will reſt with the learned Bramins, Whether to reſtore him to his Caſt again, or not?—That they can do nothing in it, but by the Order of the Shaſter. That they can eat only the Things that are permitted them by the Rules of their Caſt; that he has heard, the Bramins of Canooge eat ſome Kinds of Fleſh; but that if the Bramins in his Country eat Meat, they would loſe their Caſt—That a Bramin cannot eat his Food, unleſs prepared by another Bramin; that if he ſhould eat Food dreſt by a Perſon of another Caſt, it would be an Impurity—That Indulgences would be allowed to Perſons under an extreme Illneſs, or ſuch Hunger as might take away Power of Judgment; but that if he ſhould only be hungry, and had the Power of diſtinguiſhing Perſons, no Deviation from Rule would be allowed.—Being aſked, Whether there are any Diſtinctions as to Veſſels or Places of Cookery? he ſaid, There are; that for Inſtance, he could not dreſs his Food at the Fire in the Room where he was then ſitting, nor could he dreſs it in borrowed Veſſels, nor could he dreſs it upon a wooden Floor, but if there was a Span of Earth upon the Floor, he might—That if a Man of another Caſt, or of no Caſt, was to touch him at his Meals, or whilſt he was dreſſing his Food, or was to enter into the Space allotted by him for the dreſſing his Food, he ſhould be obliged to throw away the Victuals; and if an Hallachore, or Man of no Caſt, ſhould come into the Room where his Victuals were, the whole Houſe muſt be waſhed before he could eat in it again—That if in the open Air an Hallachore ſhould touch him, he ſhould be obliged to waſh himſelf—That ſome Caſts would be obliged to waſh their Cloaths and Body, others only their Body; and ſome low Caſts would not be obliged to waſh at all.—And being aſked, Whether he had not ſuffered great Difficulties in the Journey from his own Country to England? he ſaid, Yes, very great; that from Bombay to Mocha, though the Voyage laſted 27 Days, he never eat any Thing but what he brought with him, ſuch as Sweetmeats and preſerved Fruits, and Pumkins and Vegetables, and drank the Water he brought with him, and never taſted any Food dreſt on board the Ship—That when he arrived at Judda, the Governor, who is a Mahomedan, examined his Baggage, and ordered him into Confinement in the ſame houſe with the Perſees; that the Governor ſent him Victuals Two or Three Times every Day; but for Two whole Days he neither eat nor drank any Thing; that they were ſurprized at his not eating, when they had ſent him ſo good a Dinner; and that after ſome Difficulty he made them underſtand, by Means of a Boy, who ſpoke his Language, that being a Bramin, he could not eat their Victuals; that when he inſtructed them what his Cuſtoms required, they furniſhed him with a Tent, and other neceſſary Conveniences for dreſſing his Victuals; which he then did with his own Hand.—Being aſked, What is their Mode of Confinement of a Debtor? he ſaid, In the Firſt Place, it is not uſual to confine them; but if the Perſon ſhould be refractory, and diſobey the Orders of the Magiſtrate for diſcharging the Debt, perhaps he would place a Guard upon his Houſe; if his Debts amounted to more than his Effects, the Magiſtrate would then order Diſtribution, but he never touches the Images or Ornaments of the Place of Worſhip, or of the Apartments of the Women and Children, nor the Furniture of the Houſe; and that the Guard ſuffers Nobody to go in or out without his Permiſſion, but that it is not the Buſineſs of the Guard to prevent the Victuals coming in, unleſs he has a ſpecial Order from the Magiſtrate, for the Buſineſs of the Guard is to prevent any Thing being carried out; that if the Perſon has committed a Crime, and the Magiſtrate wiſhes to diſgrace him, he may give ſuch an Order; that he muſt not, even in that Caſe, diſgrace the Women—That it ſometimes happens, that a Prince preſſes a Zemindar for Payment of his Rents, and ſends a Guard upon his Houſe; that if the Zemindar is abſent, and has not the Money to pay, he abſconds, but then the Guard will not do any Thing to affect his Women; that if he ſhould ſeize the Property of a Zemindar, it would not be juſtifiable to touch his religious Ornaments, or his Women's Apartments; that beſides, nothing is got by ruining a Zemindar, who is the paramount Proprietor of the Land.—Being aſked, What Dealings are allowed to the Bramins? he ſaid, He is prohibited from trading in Salt, Spirituous Liquors, Oil, Butter, Shoes, and from low Trades; that an Hindoo is obliged to waſh in a Tank, or River, at leaſt once a Day; that waſhing in a River is beſt; if he cannot do that, he muſt waſh in a Tank, or with Water, in his own Houſe; that not to waſh at all, would be an Impurity; that he cannot eat without, except in caſe of Sickneſs—That if an Hindoo is excluded his Caſt, he is diſgraced, and becomes Hallachore, and is conſidered by his Family as dead; that even his Funeral Rites are performed, and his Face is never to be ſeen afterwards—That the Hindoos conſider the Water of the Ganges as ſacred, and vow to waſh in it on particular Occaſions—That long Pilgrimages are conſidered as Expiations—That the inferior Caſts of Hindoos pay Reſpect to the Superior; to a Bramin particularly, the higheſt; that Wealth is nothing in competition with that Degree of Rank—That the low People may drink the Water in which a Superior has waſhed his Feet; that he himſelf would drink, and think it would be right to do it, of the Water in which a Bramin, learned in their Books, has waſhed his Feet, but it would be a Diſgrace to the Bramin to ſuffer Hallachores or baſe People to do it.—Being aſked, Whether the lower Caſts are not much offended when they ſee the higher, ſuch as the Bramin, treated with Indignity and Diſreſpect, or whether they are pleaſed? he ſaid, If a Rajahpout ſees an Indignity offered to a Bramin, he will riſque his Life to protect him; that even the loweſt Caſts of Hindoos would not be pleaſed to ſee a Bramin degraded; that what a Mahomedan might think upon it, he does not know.—The Witneſs further ſaid, That under a Gentoo Government, the Charges of recovering a Debt are a Fourth Part, which goes to the Magiſtrate, and makes Part of the public Revenue—That in his Country, Women are not ſo much ſecluded as among the Mahomedans; but it would be a Diſgrace if they went into Courts of Juſtice—That if he had Gueſts at his Houſe, his Wife might come in with the Victuals, but could not ſit down with Men—That he has heard that the Rajahpouts, and People of Bengal, confine their Women more than the Marattas; that they will not permit them, particularly thoſe of Rank, to be ſeen—That in his Country, the Mode of recovering a Debt from a Woman, is for the Magiſtrate to ſend to her, to ſatisfy the Creditor; if ſhe refuſes, he orders her, if ſhe be a Woman of Character, to be brought to his Houſe; ſhe is carried in a covered Carriage, and received by his Women, but is never compelled to attend the Cauſe in a public Court; and even if the Magiſtrate himſelf ſpeaks to her, there will be a Curtain between them.—He ſaid alſo, That it is uſual for Women, in his Country, to burn themſelves on the Funeral Pile of their Huſbands, and that the ſame Cuſtom prevails alſo in Bengal and other Parts of Indoſtan.

And in order to enable the Houſe to compare the Effect and Tendency of the Proceedings which appeared in Evidence in their Enquires concerning Bengal, with the Policy and Conduct of the Mahomedan Governments, now and lately exiſting in the Neighbourhood of that Province, relatively to the ſame Objects; Your Committee proceeded to examine Captain Gabriel Harper; who informed them, That he had reſided in Bengal, Bahar, and Oriſſa, from 1761 to 1774; that he was in the Company's Service from 1763 to 1776, and commanded a Battalion of Sepoys from 1766 to 1774.—Being aſked, Where he was ſtationed the laſt Six Years of his Reſidence in India? he ſaid, In the Province of Oude, with the Vizier Soujah Dowlah—That he was a Mahomedan, and an independent Prince; that his Dominions extended from Eaſt to Weſt, 300 Miles in Length, from North to South, near 200 Miles in Breadth; that they were very populous, and well cultivated—That he eſtimated the actual Collection of his Revenues at about One million Eight hundred thouſand Pounds per Annum.

That the Vizier's Army was limited by Treaty in 1768, to 35,000 Men; that it was compoſed of Mahomedans and Hindoos; but by far the greateſt part Hindoos—That many of the principal Officers were Hindoos, and amongſt them ſeveral who held Commands—That the Vizier was more attentive to the Hindoo Officers than to thoſe of his own Religion, in order to attach his Gentoo Subjects more to his Perſon and Government.

That the Vizier treated the Rajahs and Zemindars under his Dependencies with the greateſt Marks of Civility, Reſpect, and Friendſhip, and particularly with regard to the Women's Apartments—That in coming near a Village, he would quit the main Road, that he might avoid ſeeing their Incloſures, as his Situation on an Elephant would enable him to overlook them—That he always recommended a ſimilar conduct to the Witneſs, which he invariably obſerved.

Being aſked, Whether, during his Reſidence with the Vizier, he ever knew of a Zemindar being diſpoſſeſſed of his Zemindary by him? he ſaid, That he can only recollect one Inſtance; that it was for Arrears of Rent, and it happened to a Man who had been frequently in Arrear, and frequently pardoned; and who was notorious not only for ill Payment of Revenue, but for his Conduct towards thoſe who were under his Government.—Being aſked, What was his Mode of Proceeding on that Diſmiſſion? ſaid, That the Zemindar was ſummoned to attend at Fizabad, the Vizier's Court; that being unable to pay his Arrears, or to find Security for the Payment, he was diſpoſſeſſed of his Zemindary, and impriſoned; where he remained ſome Time, but was afterwards releaſed at the Interceſſion of ſome of the Gentoo Officers about the Court.

Being aſked, What he meant by Impriſonment? ſaid, A Guard ſet over his Perſon in a Place near the Cutchery, appointed for the Confinement of Gentoo Priſoners, where his own Servants attended him in the ſame Manner as if he had been in his own Houſe—That he was ſuffered ſometimes to ſit under a Tree, and to ſleep under a Tent occaſionally pitched for him—That in the Province of Oude, Perſons of different Religions and Caſts are never confined in the ſame Place; for they are very careful not to offend the Cuſtoms and Religions of one Sect or the other, and it would give great Offence.—Being aſked, Whether it is uſual to impriſon Perſons for Debt in that Country? he ſaid, They are ſometimes impriſoned for Debt, but not often; that impriſoning their Perſons is the laſt Reſource they apply to—That they treat their Debtors with great Lenity, and never diſtreſs them, if they can give probable Security of paying their Debts in a moderate Time; Part of it is frequently remitted; and particularly in the Caſe of the Zemindar beforementioned, who was indebted to the Vizier £. 24,000 all of which was remitted when the Zemindar was releaſed: That a Man is conſidered as of a very unfeeling and litigious Diſpoſition, who purſues his Debtor to the Extremities of Confinement, and it is diſcountenanced by the Courts of Juſtice.—Being aſked, What is the uſual Rate of Intereſt in that Country? he informed Your Committee, That it is generally One per Cent. per Month; but that when Individuals are much preſſed for Money, the monied Men are apt to exact more, but are liable to Puniſhment for Uſury; that in this he confines himſelf to mercantile Tranſactions.—Being aſked, If he ever knew or heard of Places of Public Worſhip being profaned by the Mahomedans, in executing the Vizier's Orders againſt a Zemindar? he ſaid, Never once; ſtrict Orders are always given to avoid any thing of that Kind.

Being aſked, In what Degree of Reſpect the Women of the Rajahs and principal Zemindars are held in the Vizier's Dominions? he ſaid, In the greateſt Reſpect; that he never heard an Inſtance of an Inſult being offered to an Hindoo Woman of any Deſcription, during the Time of his Reſidence there—That by Inſult, he means, that their private Apartments may not be invaded by any Perſon whatſoever—That there are ſome of the lower Orders of Gentoo Women, who in the Time of Harveſt aſſiſt in the Fields—That to ſee thoſe Women is no Indignity; but if you offered to touch their Perſons, break in upon their Retirements, or to touch the Places where they dreſs their Victuals, it would be conſidered as a Violation of their Cuſtoms and Religious Obſervances—That he never heard of ſuch Inſults being offered in any Caſe, either by Orders from the Vizier, or from his Courts of Juſtice.

Being aſked, What was the Proportion of Hindoos and Mahomedans in the Province of Oude? he ſaid, He could not preciſely Anſwer, but that the Mahomedans bear a very ſmall Proportion to Gentoos.

Being aſked, Whether he was at the Surrender of Elliabad, in 1765? he ſaid, He was; and that it ſurrendered at Diſcretion—That there were many Women of Diſtinction, Mahomedans and Hindoos, there, at the Time of the Surrender—That Sir Robert Fletcher, who commanded the Engliſh Army, ſuffered the Women to go away in covered Carriages unexamined, and with a Guard, though he had Intimation at the Time, that they had ſecreted Money and Jewels to a very conſiderable Amount.

Being aſked, If he had been at the City of Benares? he ſaid, Frequently; and that it is eſteemed a Holy City, the Reſidence of Learning and Religion.—Being aſked, In whoſe Dominions that City is? he ſaid, It was then in the Dominions of Soujah Dowlah, but under the immediate Government of his Zemindar, Rajah Bulwan Sing, who, by the Vizir's Permiſſion, exerciſed Sovereign Authority—That the annual Tribute he paid the Vizir, was about 22 or 23 Lacks of Rupees—That he thinks there were no Mahomedan Officers belonging to Soujah Dowlah, who were in Authority at Benares—That the Vizir appointed one Officer, the Superintendant of the Mint, who was uſually a Gentoo.—Being aſked, If he had often reſided in, or paſſed through the Provinces of Benares or Gazypore? he ſaid, He had frequently paſſed through them; and often had reſided a Month at a Time at Benares—That rather a more than leſs lenient Mode of Government is obſerved in the Provinces of Benares and Gazypore, than prevails in thoſe Provinces which were more immediately under Soujah Dowlah's Government.

Being aſked, If there are many reputable Shroffs reſident at Benares? he ſaid, A great many Men of large Property, whoſe Money Dealings extend to all Parts of India—That their Bills of Exchange are very current at Surat—That the Rate of Intereſt there, is, he believes, nearly the ſame as throughout the whole Province of Oude.—Being aſked, If it was conſidered as a Place of particular Security for the Depoſit of Money? He ſaid, It was; but he believes that Idea aroſe from the Nature of its Government?—Being aſked, Whether the Effect of this Government was to attach the Inhabitants to the Perſons and Government of Soujah Dowlah and Bulwan Sing? he ſaid, That Mode of Government certainly did attach them to their Perſons and Adminiſtration.

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Being aſked, How the Provinces of Benares and Gazypore are cultivated, compared with thoſe Parts of Bahar which adjoin, and are only ſeparated by, the River Caramnaſſa? he ſaid, The Provinces of Benares and Gazypore are more highly cultivated than any he ever paſſed through, and far ſuperior to the adjoining one of Bahar; and that he attributes this comparative Proſperity of thoſe Provinces to the Induſtry of the Inhabitants, and to the ſecure and lenient Government they live under.

Being aſked, Whether the Hindoos are much attached to their Manners and Cuſtoms, and religious Obſervances? he ſaid, They are very much.—And whether the Gentoo Sepoys in the Engliſh Service pay much Reſpect to the Perſons of the Bramins, to their Places of Worſhip, and to their religious Obſervances? he replied, That he knows numberleſs Inſtances to prove that they do—That Gentoo Sepoys, on the Line of a March paſſing through the Neighbourhood of a Place of Worſhip, frequently have applied to their Officers for Leave of Abſence to perform their Devotions—That the Battalion which he commanded, was principally compoſed of Gentoos; and that in the ſeveral Routs that he has marched through the Provinces of Soujah Dowlah, he has ſometimes, at the general Requeſt of all the Gentoo Troops, when it did not interfere with any particular Service that he was employed in, halted a Day to give them an Opportunity of paying their Devotions at any remarkable Place of Worſhip; and he knows, that Soujah Dowlah has often obſerved the ſame Conduct with the Hindoos of his Army.—Being aſked, At that Seaſon of the Year when Pilgrims come from all Parts of India to bathe in the Ganges, and other Rivers, what was their Treatment from Soujah Doulah's Government? he ſaid, That there are Two Places of Bathing and Worſhip in the Neighbourhood of Fizabad, where, on the Arrival of the Pilgrims, Guards were ſtationed to protect them in their religious Obſervances; and Soujah Dowlah conſtantly made large Donations amongſt the poorer Sort of the Pilgrims, for their Maintenance during their Pilgrimage.

Being aſked, Whether the Zemindars in the Vizir's Dominions exerciſed any Juriſdiction, and what? he ſaid, They had civil and criminal Juriſdiction—That he has ſeen Robbers puniſhed by Zemindars, both by corporal Puniſhment, and even Death.—Being aſked, If any of them kept up a military Force in their reſpective Diſtricts? he ſaid, Bulwan Sing had an eſtabliſhed Army; the others only ſufficient to enforce their Orders, and prevent Diſturbances in their ſeveral Diſtricts.—Being aſked, Whether, when the Vizir took the Field, it was uſual to ſummon the Rajahs and Zemindars to attend him in Support of the War? he ſaid, Bulwan Sing always furniſhed a Quota, but he does not recollect any being ſent from the other Zemindars.—Then being aſked, If there were many Zemindars, and thoſe conſiderable? he informed Your Committee, That there were many, and they rented from 50,000 Rupees to Three Lacks annually—That they conſidered themſelves as ſecure in their Poſſeſſions, by paying their accuſtomed Rents.—Being aſked, Whether it was uſual in Soujah Dowlah, or Bulwan Sing, to raiſe the Rents, or let the Zemindaries to the higheſt Bidder? he ſaid, Never—That he believes they would rather have lowered the Rents, if an Abatement was neceſſary, to a Man who had been punctual in his former Payments; and in Times of public Misfortune, ſuch as the Want of Rain, that upon proper Repreſentation being made, he knows that Part of the Balance has been remitted.—Being aſked, if the Zemindaries were conſidered as hereditary in the Families of the Zemindars? he ſaid, No; it depended upon the Will of the Prince, but that he made a Point of continuing it in the Family, provided there was no particular Objection to the next in Succeſſion.—Being aſked, If he knew what Proportion the Revenue payable by the Zemindars bore to their Income? he ſaid, He could not deſcribe the Proportion, but that the Zemindars had always ſufficient to maintain themſelves and their Families with Dignity and Reſpect, correſpondent to their Situations.—Being aſked, If the Mahomedan Men of the Law, or Muftees, in the Countries above-mentioned, were in general in ill Reputation, on account of their Corruption? he ſaid, Their Deciſions were in general eſteemed juſt, and their Perſons held in Reſpect; and the Hindoo Doctors or Pundits were alſo held in Reſpect.—Then being aſked, What Effect the introducing the Engliſh Law into the Provinces of Benares and Gazypore would have? he informed Your Committee, That the Government they lived under when he was there, was ſo good, and ſo well calculated, that the Introduction of any Innovations, and particularly of the Engliſh Law, which in many Inſtances is ſo totally oppoſite, would be attended with many Evils and Inconveniencies.—Being aſked, If he was ever in the Country of the Rohillos, and of what Religion their Chiefs were? he ſaid, He had been through ſeveral Provinces of it, and that their Chiefs were Mahomedans—That the Government there was conducted in the ſame Manner, and upon the ſame Principles, in which it was conducted in the Province of Oude—That when he paſſed through it, on an Embaſſy from Soujah Dowlah, to conclude a Treaty with the Rohillo Chiefs, to which the Engliſh became Guarantees, it was in the moſt flouriſhing State that a Country could be.

Being aſked, If the Mahomedan and Hindoo Sepoys are attached to our Service; he ſaid, That where there is but common Juſtice done to them, and their particular Rights and Cuſtoms preſerved to them, there are no ſet of People more firmly attached to the Service, or to the Officers who command them—That they are orderly and obedient, the Hindoos more than the Mahomedans—That they are not deficient in perſonal Courage and Military Point of Honour.—Being aſked, Whether if they were employed in the Execution of Modes of Proceſs, and of Laws repugnant to their Manners and Inſtitutions, and derogatory to the Honour of thoſe whom they reſpect, they could be perfectly relied on, or what would be the Effect? he ſaid, From the Obſervations he has made of their Diſpoſitions, that he thinks they would rather oppoſe than aſſiſt ſuch Proceedings.—Being aſked, Whether the Hindoos in general think, that preſerving a Reſpect to the Diſtinction of Rank and Caſt, tends moſt to their Oppreſſion or Protection? he ſaid, It tends to their Protection; for he does not conceive that the other Orders of the Gentoos would patiently ſee a great Indignity offered to their Bramins.—Being further aſked, Whether a Tribunal which proceeds againſt all Ranks of People with one common Rigour, would, from the Circumſtance of that Equality, be thought pleaſing to the lower Caſts and Rank of People, and tending to the general Benefit? he ſaid, It is his Opinion, that it would be very unpopular and diſpleaſing to all Ranks and Caſts; that it would do no good, but that every Evil might be apprehended from it.

Being aſked, Whether the Settlement of Engliſh Attornies or Council at Law at Benares, through whom they might carry their Suits to the Supreme Court at Calcutta, againſt their own Magiſtrates, Men of the Law, and principal Zemindars, would not be of great Uſe, and prevent them from Oppreſſion? he ſaid, He thinks the Deciſions of their own Courts and Judges generally ſo upright, and ſpeedily determined at little Expence, that the Introduction of ſuch Attornies or Council, would be one of the greateſt Misfortunes that could befal them.—Being aſked, Whether an Opinion has not prevailed in Bengal, that ſeveral Engliſh Gentlemen in Authority under the Company, have abuſed their Power in many Inſtances, to the Oppreſſion of the Natives? he ſaid, He had heard of ſuch Things, and Complaints have been preferred to the Governor of Calcutta againſt Individuals of that Deſcription.—Being aſked, Whether he thought there was any Foundation for this Opinion, and thoſe Complaints? he ſaid, In ſome Inſtances he believes they were juſt, but has heard of others where the Charges were not proved.—Being aſked, Whether in Caſe of ſuch Practices, it is difficult to obtain legal Proof that ſuch Practices do exiſt, though notorious to the Country? he ſaid, Where ſuch Practices are very notorious, it is not difficult to obtain Proof.—Being further aſked, Whether the Power and Authority of Engliſh Gentlemen do not intimidate the Natives from making ſuch Complaints? he ſaid, Perhaps it might, whilſt they filled the Station, but on their Removal to any other Station, which is conſtantly practiſed in the Company's Service, if they had been guilty of any illegal Practices, there would not be wanting Proofs to convict them.—Being aſked, Whether a Succeſſor, inclined to the ſame Practices, would not endeavour to intimidate them from ſuch Complaints? he ſaid, The Succeſſor might have the ſame Diſpoſition, but might not have the Power of preventing them.—Being aſked, To whom muſt ſuch Complaints have been made at Calcutta, before the Arrival of the Judges? he ſaid, If againſt a Civil Servant, to the Governor and Council; if againſt a Military Officer, to the Governor and Council through the Commander in Chief.—Being aſked, By whom were the Gentlemen exerciſing Authority in the Provinces appointed? he ſaid, By the Governor and Council.—Being further aſked, If there was a Diſpoſition in the Governor and Council to protect thoſe Officers they had appointed, whether there was any Mode of Redreſs in the Country for the Perſons injured? he informed Your Committee, That there was no Authority ſuperior to the Governor and Council.—And being aſked, Whether, from what he knows of the Diſpoſition, Uſages, and Faculties of the Natives, he thinks any Application to England would be probable? he ſaid, The Mahomedans and ſome Caſts of the Gentoos would have no Difficulty; but to the Bramins and higher Caſts it would be very difficult, and they would rather ſubmit to much Hardſhip.

Mr. Barwell being aſked, If the Zemindars and Farmers of the Country have not been frequently guilty of flagrant and notorious Acts of Oppreſſion? ſaid, That conſidering the great Number of People, it is not poſſible that Tranſgreſſions ſhould not have been committed; but, compared with any other State of Society, he apprehends the Inſtances of Oppreſſion among the Zemindars and Renters of India, will not appear more numerous or atrocious than in other Countries; he imputes this to the Deſpotiſm of that Government, which takes inſtant Cognizance, and inflicts immediate Puniſhment, on Delinquents guilty of Acts of Oppreſſion.—Being aſked, If the Supreme Court would be in a Condition to anſwer the Ends of its Appointment, in protecting the Natives, without having Juriſdiction over the Zemindars? ſaid, Certainly not.—Being aſked, If it would not be beneficial to the Country, that the Zemindars ſhould be made amenable to the Juriſdiction of the Supreme Court, in order to enable it to attain the Ends of its Inſtitution? ſaid, That the Ends of its Inſtitution, in his Apprehenſion, did not require a Juriſdiction over the Zemindars; he did not believe it would be beneficial to the Country; ſuch an Extenſion of Juriſdiction would bring with it ſo much Buſineſs, that the Court would not have it in their Power to go through One Tenth Part of it.—Being aſked, Whether the Inſtitution of Circuits, and the Eſtabliſhment of more Courts of Judicature, ſimilar and ſubordinate to the Supreme Court, might not remedy that Effect, and extend the Benefit of the Engliſh Laws to the whole Body of native Inhabitants? ſaid, That any Inſtitution which may be formed upon the Practice of our Courts, will make the whole Syſtem ſo exceedingly complicated, is ſo novel, and ſo little ſuited to the Genius of the People, that he believes it would multiply the Evils that are already experienced; a ſummary and more ſimple Mode of adminiſtering Juſtice, is the only Inſtitution which can be beneficial to a Country, the Majority of the Inhabitants of which ſupport themſelves and Families upon ſo trifling an Income as about £. 3. 10s. per Annum.—Being aſked, What is the Expence of Suits in the Country Courts? ſaid, Not a Farthing.—Being aſked, Whether he ſuppoſed this Facility of applying to a Court of Juſtice encouraged Litigation? ſaid, It may; and of this he was certain, that few People are more impatient under Wrongs than the Indians.—Being aſked, If he thought that Law Proceedings in the Country Courts, might not be made ſubject to a ſmall Tax, without Prejudice to the ſubſtantial Adminiſtration of Juſtice? he ſaid, He thought they might.—Being aſked, If the Expences of Suits in the Supreme Court are conſiderable? ſaid, They are.—Being aſked, If they are as conſiderable as in England? ſaid, They are, and more ſo.—Being aſked, What Inſtances he had known, where Natives, by mutual Conſent, had ſubmitted their Cauſes to the Juriſdiction of the Supreme Court? ſaid, That he did not know of any Inſtances of Natives voluntarily ſubmitting their Cauſes to the Juriſdiction of the Court; when Contracts are entered into for Money borrowed, there are very few Natives who do not demand it as a Condition from the Borrower, that he ſhall be amenable to the Court.—Being aſked, If he meant out of Calcutta? ſaid, He meant native Borrowers, who do not reſide in Calcutta; but that he knew of no Lender that made this Demand, but what was reſident in Calcutta, or had Family Connections there.—Being aſked, Whether he thought, that without the Supreme Court, or ſome ſimilar Eſtabliſhment, any effectual Means could be provided for reſtraining the Miſdemeanors of Britiſh Subjects, and their Oppreſſion of the Natives? ſaid, Yes, he thought Government had the Means; but, in his Opinion, ſome Inſtitution was neceſſary, to check the Deſpotiſm of the Government, and fence the Subject againſt Oppreſſion.—Being aſked, Whether he ſigned the Letters to the Court of Directors, of the 10th and 25th of January, 1780? ſaid, He really did not recollect, but thinks he muſt have ſigned them, as he was in the Country at that Time.—Being aſked, Whether the Diſſention between the Judges of the Supreme Court, and the Governor General and Council, did not originate ſo early as the Year 1776? ſaid, That there were Diſputes between the Court and the Governor General and Council ſo early as 1774.—Being aſked, Whether Queſtions concerning Juriſdiction have not been continually agitated from that Time to his Departure from India? ſaid, They have.—Being aſked, Whether the Proceedings of the Judges upon theſe Occaſions appeared fair and regular, or replete with Irregularity and Injuſtice? ſaid, They appeared to him fair and regular, but in many Inſtances detrimental to the Revenue.—Being aſked, If the whole of their Proceedings in a particular Caſe, namely, that of Rajah Chiton Sing, Zemindar of Biſſempore, was not repreſented by the Governor General and Council, to the Court of Directors, to be replete with Irregularity and Injuſtice? ſaid, He believed it might; he recollects this Inſtance, and he thinks he joined in the Repreſentation.—Being aſked, If there were not Arzees, or Petitions, from Zemindars, complaining of the Extenſion of Juriſdiction by the Supreme Court about that Time, preferred to the Governor General and Council? ſaid, That he heard of ſuch Complaints, and he muſt refer to the Records of the Company, and to the particular Arzees or Petitions; however, for the Information of the Committee, he muſt beg Leave to remark, that there were many who complained of the Operation of the Juriſdiction upon them, and anxious to be exempted, yet applied to the Court in purſuit of Redreſs, or to ſcreen themſelves under ſome Proceſs of the Law, againſt either the Acts of Government, in enforcing Payment of its Rents, or of Individuals, proſecuting in the Country Courts of Juſtice.—Being aſked, If before he left Bengal, there were not Petitions from Zemindars, and others, to the Governor General and Council, againſt the Juriſdiction of the Supreme Court? ſaid, Yes.—Being aſked, Whether he thought thoſe Petitions were the natural Effects of their own Opinions and Fears, or obtained from them, by the Dread of the Authority and Power of the Governor General and Council, or any other Europeans, or their Agents? ſaid, He believed them to have proceeded from the People themſelves, without any European Influence or Interference whatſoever; and this further Reaſon operated upon his Mind, that no European Influence had been uſed, as the Petitions are calculated to exempt the Natives from Proſecutions in our Courts, while Engliſhmen of all Denominations are open to the Attacks of the Natives.—Being aſked, What would be the Conſequence of obliging Natives, not ſubject to the Juriſdiction of the Supreme Court, to plead to the Juriſdiction? ſaid, That ſimply to plead to the Juriſdiction, could be attended with no Inconvenience to the Party; but owing to their Ignorance of the Law, and the Advantages taken by the Attornies of the Court of that Ignorance, they are exceedingly harraſſed and perplexed by the Proceſs which iſſues to compel them to put in the Plea, even to the Ruin of themſelves and Families.—Being aſked, If it was eaſy for the Natives to obtain Bail? ſaid, It was not eaſy for any Native, not immediately reſident in Calcutta; for Men materially engaged for the Revenue to Government, it had been uſual for the Government to bail an Appearance to the Suit, to prevent the Conſequences to the Revenue, by their Removal from the Province where they reſided to Calcutta. Perſons not concerned in the Revenue, do not come under the Notice of Government, and are left to find Bail where they can.—Being aſked, If ſuch Perſons do not find Bail, what is the Conſequence? ſaid, He believed a Writ of Sequeſtration iſſues to compel Appearance.—Being aſked, If he had known any Inſtances of Zemindars being ſummoned from diſtant Places to plead to the Juriſdiction of the Court; and when arrived at Calcutta, and having declared their Intention to plead, that then the Action had been dropped? ſaid, He had heard of ſuch Inſtances.—Being aſked, If he ever heard of ſuch Actions being again renewed, and the Zemindar brought down a Second Time, and then the Suit again dropped? ſaid, He had heard of ſuch Inſtances.—Being aſked, If it was not the uſual Practice in the Company's Service, when any Member differed with the Majority, for him to concur in the Execution of what is ſo determined, but to enter his own Reaſons on Record againſt the Reſolution of the Majority? he ſaid, It is uſual; and it is uſual often to diſpenſe with it; and that Circumſtances, and the State of the Council, determine the Individual in this.—Being aſked, If he knew of any Increaſe of Salary or Appointment to Sir John Day, Advocate General, beyond the Orders of the Eaſt India Company? ſaid, He did: The Addition was made on the

Ground of his giving up all Kinds of private Buſineſs, and devoting himſelf entirely to the Company.—Being aſked, At what Period of Time this Augmentation was made? ſaid, He did not particularly recollect; he deſired Leave to refer to the Records.—Being aſked, If the Advocate General had much Practice before this Augmentation? ſaid, He really cannot ſay; he never officiated as an Advocate in the Court; and his Knowledge of ſome few Caſes being ſtated to him, will not allow him to ſay his Practice was extenſive; he rather believes it was not.

On the Subject of the Exerciſe of the penal Law of England, over ſuch Natives of Bengal as the Supreme Court have conſtrued to be within their Juriſdiction, Your Committee thought it proper to enquire into the Effects produced upon the Minds of the Natives, by the Puniſhment of Death, inflicted on Mar Rajah Nundcomar, a Native of high Rank in that Country, for a Forgery, under an Act of George II. charged to have been committed ſeveral Years before the Inſtitution of the Court.

The Court of Directors of the Eaſt India Company, in their Letter to Lord Viſcount Weymouth, dated November the 19th, 1777, and entered in the General Appendix to this Report (N° 3) ſtate "that Nundcomar was indicted, tried, convicted, and executed, for an Offence which was not "capital by the Laws of the Country where the Offence was committed—That they conceive this "Proceeding to be a Matter of moſt ſerious Importance, and big with Conſequences the moſt "alarming to the Natives of India; and that the general Principle which the Judges ſeem to have "laid down in their Proceedings againſt Nundcomar, is, that all the criminal Law of England is in "force, and binding, upon all the Inhabitants within the Circle of their Juriſdiction in Bengal."

The Circumſtances of this Execution are ſet forth by the Governor General and Council, and Judges of the Supreme Court, and by different Members of thoſe Bodies, in various Papers, Extracts of which are alſo entered in the References to N° 3, in the General Appendix.

And the Witneſſes examined by Your Committee, have given the Evidence which follows:

Thomas Farrer, Eſquire, One of the Members of Your Committee, being examined, was aſked, If he was not at Calcutta at the Time of Nundcomar's Trial, and well acquainted with the Circumſtances of his Caſe? ſaid, He was in Calcutta, and was Counſel in the Cauſe for the Mar Rajah.—Being aſked, Whether he took Advantage of arguing concerning the Inapplicability of a penal Engliſh Statute to the Caſe of Nundcomar? ſaid, No Doubt he did: He firſt prepared and put in a Plea to the Juriſdiction of the Court; that Plea being over-ruled, he afterwards contended, that though the Judges might in Strictneſs deem themſelves competent to try him, yet that the Engliſh Statute, that made the Offence, upon which he was to be tried, capital, could never be meant to extend to Perſons under his Circumſtances.—Being aſked, If that Argument was admitted in Favour of his Client? ſaid, That the Conſequences which were publicly known to have followed, ſpeak the contrary, as he was condemned and executed.—Being aſked, If any Application was made, to reſpite the Execution of the Sentence until His Majeſty's Pleaſure ſhould be known? ſaid, That the Supreme Court have, by virtue of the Charter under which they ſit, a diſcretionary Power of granting Appeals and reſpiting Execution in Criminal Caſes: A Petition of Appeal was in this Caſe prepared and moved in the Court, but was refuſed to be granted; that he afterwards applied to the Foreman of the Jury, actuated by the Principles of Humanity ſolely, to ſubmit to him the Propriety of a Recommendation from him and the reſt of the Jury, to the Clemency of the Judges, until the King's Pleaſure ſhould be known; that, not finding him at home, he left a Note, acquainting him with the Reaſons of the above Application; that Note was followed by a Letter from the Foreman to the Witneſs upon the Subject, and afterwards by a Reply from him to the Foreman; theſe Letters, he obſerved, are entered in the Proceedings of the Governor General and Council, and by them tranſmitted to the Court of Directors, and are now before the Committee; but the Witneſs obſerved, that they are very incorrectly copied; he adds, That theſe Letters were ſent by the Foreman of the Jury to the Chief Juſtice, who afterwards in Court cenſured Mr. Farrer in ſevere Terms for the Part he had acted upon this Occaſion.—Being aſked, If there were any Circumſtances in Nundcomar's Caſe which might make it dangerous to reſpite the Execution until His Majeſty's Pleaſure was known? ſaid, None, that he could conceive.—Being aſked, If he heard any Danger of his Eſcape from Priſon being ſtated? ſaid, He never heard any Thing of the Kind; he has viſited him in Gaol, and found it guarded by a Number of Sepoys; between his Condemnation and Execution, he believes there was an European Officer commanded the Guard.—Being aſked, If there had been any Attempt towards a Reſcue? ſaid, None that he ever heard of, or believed.—Being aſked, If, at the Time of that Trial, there was not a Civil Suit pending, for the Recovery of the Money received by him upon the Inſtrument charged to have been forged? ſaid, That whether any Civil Suit was then actually depending or not, he could not ſay; but that ſuch Suit had been commenced and proſecuted in the uſual Manner, he knows of a Certainty, as he had read the Proceedings.

And Mr. Farrer being further examined, was aſked, What Effect the Execution of Nundcomar had upon the Minds of the native Inhabitants? ſaid, He heard and believed general Terror and Diſmay.—Being aſked, If ſeveral of the principal native Inhabitants did not preſent an Addreſs to the Judges ſoon after the Execution of Nundcomar, expreſſing their Satisfaction in the Proceedings of the Court, particularly in its Lenity and Moderation? ſaid, He believed there were about that Time ſeveral Addreſſes preſented to the Judges, by the native Inhabitants and others, to the Effect mentioned in the Queſtion.—And being aſked, Whether he believed that theſe Addreſſes were the ſpontaneous Effects of their own Ideas, or the Effects of Influence and Fear? ſaid, He believed they were principally the Effects of Influence and Fear, if not altogether ſo; inaſmuch as he has been given to underſtand, from various Deſcriptions of Natives, that thoſe who did not ſign ſuch Addreſſes, would not be conſidered as the Friends of the Supreme Court, or the Government.—Being aſked, If the Execution of Nundcomar had a Tendency to encourage the Natives to prefer their Complaints for Abuſe of Power to the Supreme Court of Juſtice, or to any other Body authorized to receive the ſame? he ſaid, He believed not.—Being aſked, If he believed it to have had the contrary Effect? ſaid, Yes, for a conſiderable Length of Time; but what may have been the Caſe ſince, he knew not.

Charles William Boughton Rouſe, Eſquire, a Member of Your Committee, informed Your Committee, That a Civil Suit againſt Nundcomar was originally entered in the Judicial Court of Cutchery, and that Proceedings were held upon it in the Dewannee Adaulut, in Calcutta, which was eſtabliſhed in lieu of that Court, in the Year 1772, and over which he then preſided—That after ſome Examination had, the Court of Adaulut repeatedly recommended Arbitration to both Parties, but they could not agree about the Perſons; and, to the beſt of his Memory, that was the Difficulty.

Mr. John Mills being aſked, Whether he was in Calcutta at the Time Mar Rajah Nundcomar was executed, and what Effect it had upon the Minds of the Inhabitants? he ſaid, He was; and that ſeveral of the credible Natives informed him, that they never could have thought that any Britiſh Law or Act could have condemned a Native of Indoſtan, for any Crime or Crimes committed many Years before the Act; and that they did not doubt, but that a Time would come, when the Natives would be revenged for ſuch an Act, which appeared to them of ſo much Injuſtice. Then being aſked, Whether, during his Reſidence at Calcutta, there were many Inſtances of Natives tried for Offences by the Engliſh Law? he ſaid, Several; but that he never ſerved upon the Petty Jury. Then being aſked, What he underſtood by the Expreſſion made Uſe of by the Natives, that they did not doubt but the Time would come when they ſhould be revenged for an Act of ſo much Injuſtice? he ſaid, That all he could underſtand was, in their Hopes of private Revenge upon the Perſons of thoſe who had paſſed the Sentence.

Your Committee again examined Major James Rennell; who ſaid, That at the Time of the Execution of the Mar Rajah Nundcomar, he was at Dacca; that it occaſioned much Surprize and Terror on the Minds of the Natives there.—And being aſked, What Opinion they entertained of the Application of the Engliſh Criminal Law in that Caſe? ſaid, They were apprehenſive the Engliſh Law would impute Crimes to them which they did not underſtand; and that the Execution of Nundcomar was a Degree of Puniſhment ſo novel and unexpected, that, pending his Trial, and till his Execution, Nobody ſuppoſed he would be executed.—And being aſked, If they did not know that Forgery was a Crime? ſaid, They certainly knew it was a Crime, but never deemed it a capital One; nor was it ever ſo puniſhed in their Courts.—And being aſked, Whether the Opinion of the People at Dacca, that Mar Rajah Nundcomar would not be executed, aroſe from an Idea that it would be impoſſible to obtain Juſtice againſt a Perſon of his Rank and Power? ſaid, That amongſt the lower Sort of People he believed it did; but the better Sort imagined that it was meant to terrify others from committing Forgery, by proceeding to Sentence—He had long ceaſed to be a Man of Power.

Mr. Joſeph Price being examined, ſaid, He had reſided in India about Thirty Years, in Bengal, from 1767 to 1780, in the Capacity of a free Merchant.—Being aſked, If he was in Calcutta at the Time of the Execution of Mar Rajah Nundcomar? he ſaid, He was.—And being aſked, What Effect that Execution had upon the Minds of the native Inhabitants in general? he ſaid, He believed they were a great deal ſurprized at it; and that their Surprize was owing to their not having ſeen a Man of Rank and Diſtinction executed before in that Manner.—Being aſked, If he underſtood it as a general and prevailing Opinion amongſt the Natives, that he had been guilty of the Crime laid to his Charge? he ſaid, That on his Conſcience he believed that every Man in the Country, even down to his own Son, believed him guilty of the Crime laid to his Charge; but whether that Crime merited Death, he cannot ſay; that he was upon the Grand Jury that found the Bill againſt him.—Being aſked, What was the Mar Rajah Nundcomar's general Character? he ſaid, A very bad one, amongſt all Orders of Men.—Being aſked, If the People in general were not afraid of him, on account of his intriguing Spirit? he ſaid, He believed in general very much ſo.—Being aſked, If the diſgraceful Execution of a Man held guilty of Forgery, and generally obnoxious to the Community, was not a very pleaſing and popular Act throughout the Country? he ſaid, It certainly was; as a Man, they were happy to get rid of him; as a Nation of Hindoos, they were ſurprized that ſuch a Power was introduced amongſt them, which could, for what they might deem a venal Crime, put a Prince and a Bramin to Death.—Being aſked, If he conceived the Prejudices of the Natives to be at all ſhocked by the Circumſtances of the Trial and Execution of the Rajah? he ſaid, That he was certainly an unpopular Man; and that all Orders of People seemed pleased, that as he deserved an ignominious Death, he suffered it, still speaking of him as a Man; but it shocked their Religious and Civil Prejudices as a People.—Being asked, If a Bramin, and a Man who had held the same Rank in the State as the Rajah, without his unpopular Character, had been so executed by Proceſs of the English Law, whether he conceived that the Prejudices and Cuſtoms of the Natives would not have been ſhocked with the Execution? he ſaid, They certainly would; for they deteſt the very Idea of the Introduction of the Engliſh Law.—Being aſked, If he had not found them ſenſible that they enjoy more ſubſtantial Juſtice from the Inſtitution of the Supreme Court of Judicature, than they formerly experienced? he informed Your Committee, That whilſt the Mayor's Court exiſted, they might apply to that Court or not for Juſtice, as they thought proper; that they diſlike the Interpoſition of the Supreme Court of Judicature amongſt themſelves, becauſe it interferes with all their Cuſtoms, Manners, and Prejudices; and he believes they would, Nine Times out of Ten, rather give up their Property than diſpute it in the Supreme Court; that he believes, in general, nothing but perſonal and private Pique carries them there.—Being aſked, If ſuch native Inhabitants of Calcutta as had not the Benefit of applying to the Mayor's Court, were not particularly pleaſed at the Inſtitution of a Court to which they might carry their Suits, independent of the Governor and Council, who held the Controul over the Country Courts? he ſaid, They were certainly as ſtrongly prejudiced in Favour of their own Courts, as Engliſhmen are in Favour of theirs; and if left to themſelves, would always apply to them.

Captain Cowe being again examined by Your Committee, was aſked, Whether he was at Calcutta at the Time of the Proceedings againſt Nundcomar, and at the Time of his Execution? ſaid, He was, during the whole of the Time.—Being aſked, If any criminal Proſecution had been commenced againſt him before that Indictment for Forgery? he ſaid, None, that he had heard of.—Being aſked, What was the Opinion of the Natives concerning that Proceeding, whether they thought it political, or done in the ordinary Courſe of Juſtice? ſaid, He believed there was a great Diverſity of Opinions; that many thought it was done from political Motives, others in the ordinary Courſe of Juſtice, according to the Laws of England.—Being aſked, What was the Character of the Rajah Nundcomar among the Natives? ſaid, That he was conſidered as a Man of Underſtanding, but much addicted to Litigation, and in general thought a deſigning artful Man; that he never heard any Thing farther againſt his moral Character.—Being aſked, Whether his Proſecution did not give general Satisfaction to the Natives, as being the Means of bringing to Juſtice a Criminal, who had been a long Time protected from it by his Power and Artifices? ſaid, He never heard that it had given Satisfaction, except to a few, who might have viewed it in a political Light.—Being aſked, Whether he had not heard that the Offence for which Nundcomar was tried, was committed ſeveral Years before the Trial? he ſaid, He always underſtood it had been committed for many Years before the Trial.—Being aſked, If he had an Opportunity to make any Obſervations concerning the Execution of Nundcomar? ſaid, He had; that he ſaw the Whole, except the immediate Act of Execution, from the Parapet of the New Fort, not quite Half a Mile from the Place of Execution; there were Eight or Ten thouſand People aſſembled, who at the Moment the Rajah was turned off, diſperſed ſuddenly, crying, Ah Baup-aree, leaving Nobody about the Gallows but the Sheriff and his Attendants, and a few European Spectators: He explains the Term of Ah Baup-aree, to be an Exclamation of the Black People, upon the Appearance of any Thing very alarming, and when they are in great Pain—That they did not think he would be put to Death till he was actually executed—That many of them even ran into the River, from the Terror at ſeeing a Bramin executed in that ignominious Manner—That the Circumſtance of his Execution was received with great Horror by all the Natives, as well as moſt of the Europeans, who, in general, thought it a hard Caſe.—Being aſked, If the Natives in general were not ſatisfied with the Introduction of the Rigor of the Engliſh Penal Statute Law, as tending to ſecure Credit and Fidelity in Dealings? ſaid, As far as he ever underſtood, quite the reverſe.—Then being aſked, Whether the Equity and Impartiality of the Supreme Court in that Buſineſs, did not ſtrike forcibly upon the Minds of the Natives, and impreſs them with a ſtrong Idea of the Wiſdom and Juſtice of the Engliſh Laws, and a Deſire of having them extended for the general Benefit? He informed Your Committee, That it rather impreſſed them with an unfavourable Idea of our Juſtice and Equity, and that he never heard, they, by any Means, wiſhed to have them extended.—Being aſked, If the Natives knew for what Purpoſe the Supreme Court had been eſtabliſhed? he ſaid, He believed at firſt they did not properly underſtand it, but that by this Time they are perfectly acquainted with the Nature of its Inſtitution.—Being aſked, If it was not generally given out, that this Court was inſtituted for their Protection and their Defence, againſt the Abuſes of European Authority? he ſaid, It was; that he remembered hearing Mr. Le Maiſtre, One of the Judges, from the Bench, expreſs his Surprize, that ſo many People applied for Redreſs to the Country Courts, when they might depend upon as good Juſtice, or better, in the Supreme Court of Judicature; and that theſe were his very Words.—Being aſked, If the Natives conſidered the Proceedings againſt Nundcomar, and his Execution, as anſwering the Ends of the Inſtitution of the Court in the Protection of the Natives? he ſaid, He did not believe they did.—Being aſked, Whether they did not conſider the Execution, as having a Tendency to encourage them to prefer Complaints againſt Europeans in Authority? he ſaid, He believed not.—Being aſked, Whether an Addreſs to the Judges was not ſigned by ſeveral of the Natives, commending their Conduct in the Office, and particularly dwelling upon the Character of Mercy?—he ſaid, That he has ſeen an Addreſs from the Armenian Merchants printed, which he believes was given to the Judges. —Being aſked, Whether that Addreſs contradicted the Sentiments of the Natives, which he had juſt now mentioned ?—he ſaid, It did.—Then being aſked, Whether he looked upon that Addreſs, or the Converſation he had heard, as moſt truly expreſſive of the genuine Senſe of the Natives ? he ſaid, He believed the Converſations he had heard, to be the moſt expreſſive ; and that the Addreſs does by no Means expreſs their Senſe.—Being aſked, If he recollected any Inſtance of Mercy, to which that Addreſs alluded ? he ſaid, None, except the Releaſe of the Felons, and ſeveral who had been under Sentence of Death in the Priſon at Calcutta for capital Offences.—Then being aſked, If any particular Circumſtances of Hardſhip had been repreſented to the Judges ? he ſaid, He did not know that there had, before the Arrival of the Judges.—And being aſked, Whether an Opinion had prevailed, that the Conſtruction or Execution of Criminal Law had been ſevere and immoderate ? he ſaid, He never had heard any ſuch Opinion.

Your Committee again examined Edward Baber, Eſquire ; who ſaid, He was at Muxadabad at the Time of the Execution of the Mar Rajah Nundcomar ; and believes that Event was much diſcuſſed among the Natives of that City.—And being aſked, What Opinion the Natives entertained of the Application of the Engliſh Criminal Law in that Caſe ? ſaid, That it was a very ſevere Application, and it cauſed a good Deal of Alarm.—And being aſked, From what particular Circumſtances did that Alarm ariſe ? ſaid, He apprehended that the Alarm aroſe from the Ignominy as well as Severity of the Puniſhment of Crimes, not deemed capital with them, and the Fear that the Law might be applied to Cauſes however remote.—Being aſked, What was the Rank of the Mar Rajah Nundcomar in that Country ? ſaid, He was a Bramin of the firſt Rank, and his Station had been alſo the firſt in the Government, namely, Prime Miniſter to the Nabob of Bengal.—And being aſked, What was the general moral Character of the Mar Rajah among the Natives ? anſwered, A very bad one.—And being aſked, If the People were not very much pleaſed to find a Man of that high Rank, and that bad moral Character, brought to ſtrict Juſtice for his Offences ? he ſaid, He believed, that however much he might be diſliked, the trying him by the Engliſh Laws was not at all pleaſing to them.—Being aſked, Whether moſt of the Offences that are capital by the Law of England are capital by the Laws of Indoſtan ? ſaid, They are not.—And being aſked, If from his Knowledge of the Country, he thought that the Puniſhments allotted by the Law of the Country to Offences, were ſufficient to preſerve Peace and good Order ? ſaid, He did, and for this Reaſon, that he has frequently heard from the Natives, Accounts of the Commendations of the Regulations and good Order of the Police of the Country before the Engliſh had any Concern with it.—Being aſked, Whether he thought the Natives conſidered a capital Puniſhment was more than neceſſary for an Offence like that imputed to the Mar Rajah Nundcomar ? ſaid, They certainly did conſider it as ſevere, becauſe, excluſive of the peculiar Reverence they pay to a Bramin, the Crime itſelf committed by One of the loweſt Caſt or Rank, is not capital.—Being aſked, If there was not much Tranſaction through the Medium of Writing, and greatly affecting Property of all Kinds in that Country ? ſaid, Yes.—And being aſked, Would it not tend greatly to the Security of that Property, and conſequently to the Encreaſe of the Commerce and Welfare of that Country, if this Crime of Forgery was puniſhed in a ſeverer Manner than it is uſually puniſhed in the Country Courts ? ſaid, That in his Opinion he did not think it would.—And being aſked, Whether this ſevere Puniſhment is not much deſired by Perſons in Trade, or concerned in Money Tranſactions ? ſaid, He does not think it is ; and thinks, he may add, that they would be better ſatisfied, if their own Cuſtoms continued, than to be obliged to adopt ſeverer Laws.—Being aſked, If the Engliſh Law, which inflicts capital Puniſhment on various Kinds of Felonies, under their various Deſcriptions, would not be acceptable to the Natives, as affording a further Security to Property ? ſaid, He does not think they would ; on the contrary, he believes they would be ſhocked at the various Deſcriptions of our capital Puniſhments.—Being aſked, In what Manner he conceives our Laws of Tranſportation would be applicable to the State and Manners of that Country ? ſaid, He thought it would be worſe than the capital Puniſhments, becauſe the Hindoos had much rather ſuffer Death than be promiſcuouſly put on board a Tranſport as Criminals, where every Law of Religion, their Manners, and Cuſtoms, muſt be violated.—Being aſked, If he knew, or had heard, that it is uſual to ſentence Criminals, in certain Caſes, to labour on the public Works ? ſaid, He knew it is the Law and Cuſtom of the Country.—Being aſked, If he ever heard that the Men ſentenced to this Puniſhment in Calcutta, were ſet at Liberty by the Authority of the Supreme Court ? ſaid, That he had heard this Act much talked of by the Natives of Muxadabad, who ſpoke of it with great Surprize and Apprehenſion ; and amongſt the Europeans, it was conſidered as mad an Act as that of Don Quixotte ſetting free the Galley Slaves.—Being aſked, If this Act did not produce many ill Effects in the Country ? ſaid, He did not know, he was abſent from Calcutta at the Time ; but he had heard that many of the Inhabitants of Calcutta maintained private Guards of their own, to protect their Houſes and Property.—Being aſked, If he had not heard that the Khoran admits of a Compoſition for ſeveral Offences, and even for Murder ? ſaid, Yes.—Being aſked, If that Licence has not produced great Miſchiefs within the Province ? ſaid, Not that he knew of.—Being aſked, If Murder was a common Crime in Bengal, or the other Provinces ? ſaid, He does not think it is ; they are far from a ſanguinary People, and very averſe to ſhedding Blood.—Being aſked, Whether from his Knowledge of the Manners, Cuſtoms, and Diſpoſitions of the People, he thought it would be a Matter of extreme Difficulty, or perfectly odious, to introduce a Trial, ſimilar to that by Jury, in the native Courts ? ſaid, That Arbitration is a very common and a very ancient Practice amongſt them, which being ſomething of the Nature of a Jury, might, perhaps be modified to ſomething ſtill nearer to it.—Being aſked, If he ever heard that Rada Chund Meter, a Gentoo, was condemned at the Court of Oyer and Terminer at Calcutta, for Forgery, previous to the Arrival of the Judges of the Supreme Court of Judicature? ſaid, Yes; he was not executed; he was recommended to His Majeſty's Mercy, by the Governor General and Council, at the Requeſt of the Inhabitants, and received the King's Pardon.—Being aſked, If he knew upon what Grounds, he was recommended to Mercy? ſaid, That the Petition fully ſtated it.—Being aſked, If there had been any formal Promulgation of the Heads of the Engliſh Criminal Law, to the Natives of the Provinces, or any Abſtract publiſhed under Authority, in any of the Country Languages, of the Engliſh Civil and Criminal Law, or of the Modes and Rules of Practice in the Engliſh Courts? ſaid, Never that he heard of.—Being aſked, As he was Chief of a Provincial Diviſion, could ſuch a Promulgation have been made without his Knowledge? ſaid, Certainly not.

In Addition to the Caſe of the Rajah Nundcomar, Your Committee think it incumbent on them to lay before the Houſe, an Inſtance of the Operation of the Engliſh Penal Law over the Natives of Bengal, in the Caſe of Ajooderam and Subharam, who were brought Priſoners from the Province of Dacca to Calcutta, about 300 Miles from their Place of Reſidence, accuſed of Murder (General Appendix N° 51); and after remaining Eleven Months in the Engliſh Gaol, were found, upon their Trial, not to be Objects of the Juriſdiction of the Supreme Court, and were diſcharged.—Upon this Subject Your Committee again examined Thomas Farrer, Eſquire, a Member of Your Committee; who being aſked, If he was employed to defend Ajooderam and Subharam, the Servants of the Rajah Kirk Narrain, upon an Indictment for Murder, before the Supreme Court? he ſaid, That he was retained and employed as Counſel, not only in Behalf of them, but alſo in Behalf of 13 or 14 Perſons (to the beſt of his Recollection as to the Number) againſt whom Indictments for Murder were preferred for the ſame Tranſaction.—And being aſked, If theſe Two Men were brought Priſoners from the Province of Dacca, and confined in the Gaol at Calcutta? ſaid, They were, by a Warrant granted by Mr. Juſtice Hyde, who committed them to the Common Gaol at Calcutta.—Being aſked, How long they continued in Priſon? ſaid, Eleven Months at leaſt.—Being aſked, If there was an Offer made to bail them? ſaid, That it appeared to him that they were committed under a Warrant that was bad, both in Form and Subſtance, and moreover that they were by no Means Objects of the Juriſdiction of the Court; he therefore moved the Court, that they ſhould be either diſcharged from Confinement, as committed under a bad Warrant, or that they ſhould be admitted to Bail, on the ſpecial Circumſtances of the Caſe. The Court admitted the Warrant to be bad, but inſtead of releaſing the Priſoners amended the Warrant, and refuſed to admit them to Bail.—One Seſſion of Oyer and Terminer was held ſome Time ſubſequent to the Commitment of theſe Priſoners, at which, convinced of the Goodneſs of their Cauſe, he had preſſed to bring on their Trial to the utmoſt of his Power, but to no Purpoſe, as the Proſecutor poſitively refuſed ſo to do.—He did not make the Motion for Bail or Diſcharge till after that Seſſion of Oyer and Terminer, and he thought this Refuſal a ſtrong additional Reaſon to make the abovementioned Motion.—Being aſked, Whether theſe Priſoners were kept in Irons? ſaid, That Application was more than once made to him, on their Behalf, ſtating, that they were very heavily ironed, inſomuch that the Irons had eat into their Fleſh, and that they were apprehenſive of a Mortification taking Place; and that the other Hardſhips they underwent in Priſon, were ſo great, that they were ſcarce able longer to ſupport Nature—That he laid theſe Matters before the Court; the Facts were enquired into, and found to be in a great Meaſure true; and the Nature of their Confinement was made eaſier to them in Conſequence thereof.—Being aſked, When theſe Priſoners were brought to Trial, did it appear that they were ſubject to the Juriſdiction of the Court? he ſaid, No; Pleas to the Juriſdiction were put in to all the Indictments, and from the Evidence of the Firſt Witneſs produced on the Part of the Proſecution, it appeared to the Satiſfaction of the Court, that the Defendants were not Objects of its Juriſdiction, and they were diſcharged accordingly.—Being aſked, If theſe Men obtained any Redreſs againſt their Proſecutors? ſaid, None that he knew of.—Being aſked, If he knew whether this Proſecution was expenſive? ſaid, That he had heard, and had every Reaſon to believe, that it did not coſt the Defendants and their Principals, a leſs Sum than £. 3,000 Sterling.—Being aſked, If this Expence was defrayed by the Eaſt India Company? ſaid, Not One Shilling of it.

Your Committee proceed next, to report, in a ſummary Manner, ſeveral Caſes which have come under their Inſpection, where the Juriſdiction of the Supreme Court has interfered with the Collections of the Public Revenue, and the Rights of Zemindars, and controul over the Chief Criminal Magiſtrate of the Three Provinces.

Your Committee proceed to ſtate the Caſe of Seroop Chund, who was committed to Cuſtody by the Provincial Council of Dacca, and releaſed by the Authority of the Supreme Court; and more particularly, becauſe in this Caſe, more than in many others which are made ſubject of Complaint againſt the Court, by the Servants of the Eaſt India Company, the Grounds, upon which the Supreme Court aſſerted the Legality and Propriety of their own Juriſdiction, and denied the Competency of that Authority exerciſed by the former, are very fully diſcuſſed in the Argument delivered from the Bench.

Seroop Chund was committed into Cuſtody by the Provincial Chief and Council of Dacca, for an Arrear of Revenue alledged to be due from him to the Company, as Malzamin or Surety for the Rents of a Diſtrict called Deccanſavagepore; and alſo for a conſiderable Balance of Caſh alledged to be paid into his Hands, as Cazanchy or Treaſurer of the Revenues of that Provincial Diviſion—The former Claim he diſputed; the latter he acknowledged to be juſt, but refuſed to diſcharge. The Reaſons for this Refuſal not appearing ſatisfactory to the Provincial Council, they continued their Reſtraint upon Seroop Chund, declaring, in their Letter to the Governor General and Council, dated Auguſt 26th, 1777, that as that was the firſt Inſtance they had experienced of Reſiſtance to the Orders of Government, and Denial of its Claims, and had been made by a Perſon holding One of the principal Offices under that Council; the Releaſe of Seroop Chund, after his public Defiance of their Authority, would render nugatory any future Exertions of the Powers veſted in them, for obtaining Payment of the Company's Revenues; and Seroop Chund, after a perſonal Examination before the Provincial Council on the Subject of both Claims, was declared by them to be diſmiſſed from his Poſt of Treaſurer, as unworthy the Truſt he held. General Appendix, N° 6.

And Your Committee find, that at this Time, an Order had been given from Mr. Juſtice Hyde, with a Rule to ſhew Cauſe why a Writ of Habeas Corpus ſhould not iſſue to the Provincial Council, to produce the Body of Seroop Chund: And the Juſtice, not being ſatisfied with the Reaſons exhibited to him by the Company's Attorney, who applied to him for that Purpoſe, ordered a Writ of Habeas Corpus—In conſequence of which, Seroop Chund was delivered up by the Provincial Council.—It does not appear that he had then paid any Part of the Arrear of Revenue, and of 69,749 Rupees (or about £.7,000) the Balance of Treaſure acknowledged by him to be due, no more than 9,750 Rupees (or about £.1,000) had been received. But in a ſubſequent Letter from the Company's Attorney, dated Twenty four Days after Seroop Chund's Diſmiſſion from his Office, the Provincial Council had recovered 46,511 Sicca Rupees (about £.5,000) of the Treaſury Balance; and there ſtill remained due upon that Article 22,238 Sicca Rupees (about £.2,500) and on the Arrear of Revenue 10,000 Sicca Rupees (about £.1,200).

And when the Return to the Writ of Habeas Corpus came to be argued before the Court on the 19th of September 1777, the Council for Seroop Chund moved, to quaſh his own Writ for Informality; which was granted; and an amended Writ was ſerved in Court upon the Nazir or Officer of the Provincial Council in whoſe Cuſtody he had been: And the Counſel for the Company aſked for a longer Term to make a Return thereto, "Becauſe the Governor General and Council conſidered this Buſineſs in ſo very ſerious a Light, and a Thing of ſuch Conſequence to the Company's "Revenues and Collections in the Country at large, and in the Diſtrict of Dacca in particular, that "they wiſhed to have the higheſt Authority poſſible, either to confirm them in the Exerciſe of their "Juriſdiction, or to aboliſh that Juriſdiction entirely, and by that Means effectually to put a Stop to the "Collections."—But no longer Term was granted than the following Day; and it was declared by Mr. Juſtice Le Maiſtre, ſenior Judge then on the Bench, that Seroop Chund appeared to have been confined with a Severity not uſually practiſed upon Priſoners for Debt, ſo that he could not eat, or perform the Ceremonies of his Religion, and the Court could not, without Injuſtice, refuſe an immediate Return to the Writ.—However, it appears, that the Allegation of unuſual Severity in the Confinement of the Priſoner, was denied by the other Party, and their Exculpation from this Charge was ſupported by Affidavits of the Officers of the Khalſa (or Exchequer) ſuppoſed to be particularly converſant in the ancient Uſages and Cuſtoms of the Country Government. General Appendix, N°. 7.

And it appears by a Letter from the Company's Attorney, that the Return was argued in Court the enſuing Day, being the 20th of September 1777—That the Company's Counſel again moved for a longer Term, complaining of the Shortneſs of the Time allowed, being only Twenty-four Hours from the ſerving of the Writ, that Inquiries might be made into Circumſtances which were judged dubious, and Anſwers might be received from Dacca, to Points it was abſolutely neceſſary to aſcertain, which, from the Diſtance of that Place, Your Committee underſtand would require at leaſt Six Days; and offered, that Seroop Chund ſhould in the mean Time be permitted to go out on Bail twice in the Day to eat;—and that the ſaid Motion was not granted by the Court—That then the Company's Counſel propoſed to give the Priſoner Enlargement upon Bail, ſo that he ſhould not leave the Settlement; but "That the Two Judges preſent would not accede to any Terms, unleſs a total "Releaſe was given to the Priſoner, without Reſtraint or Confinement to any Place; and the Secu-"rity to be given was, that he ſhould appear and pay any Sum of Money which any competent "Court of Judicature ſhould adjudge to be due to the United Company of Merchants of England "trading to the Eaſt Indies." And the Attorney ſays, he did not acquieſce in this Kind of Releaſe, nor to a Bail-piece ſo worded, as thinking it "either entirely nugatory, or liable to many Litigations "with Regard to the Opinion of the Judges preſent, as to the Competency of the Court which "might decide hereafter on this Matter." General Appendix, N°. 8.

And for the Grounds upon which the Supreme Court reſolved to releaſe Seroop Chund from the Cuſtody of the Officer of the Provincial Council, and diſallowed the Competency of their judicial Acts as a Corporate Body, Your Committee beg Leave to refer to a long Argument delivered by the late

Mr. Juſtice Le Maiſtre upon that Occaſion; in which he declares his Conſtruction of the Act of the 13th of His preſent Majeſty, as far as relates to the Authority thereby intended to be given to the Governor General and Council, in the Management and Collection of the Revenues; and upon which Act, the Governor General and Council have always claimed and exerciſed, by themſelves or their Servants, the Power of confining Perſons in order to enforce Payment of their Rents and Revenues, in the Provinces of Bengal, Bahar, and Oriſſa: And, excluſive of the public Arguments advanced by the Judge who pronounced the Deciſion of the Court, Your Committee find it is declared, That there are other Reaſons for Seroop Chund's Releaſe, ariſing from the Affidavits made before Mr. Juſtice Hyde, upon which the Writs were grounded, containing Accuſations of great Oppreſſion, and imputing to very unjuſt Motives the Severity exerciſed againſt Seroop Chund: But the Particulars of theſe Affidavits do not appear to have been filed of Record in the Proceedings of the Supreme Court upon this Deciſion; however, Your Committee find, that a Letter was immediately written to Mr. Juſtice Hyde, from the Governor General and Council, deſiring, as Mr. Juſtice Le Maiſtre's Argument alluded to Charges of a very criminal Nature againſt ſome Perſon or Perſons whoſe Names are not mentioned, but who could be no other than Servants of the Company, or Perſons acting under their Authority, that he would be pleaſed to furniſh Copies thereof. General Appendix, N° 9.

Your Committee do not find, amongſt the Papers referred to them from the Eaſt India Houſe, any Anſwer from Mr. Juſtice Hyde to the above Requiſition: But judging it proper, upon ſo public an Accuſation, thrown out by a Judge upon the Bench, to aſcertain, as far as in them lay, whether the Provincial Council had, in their Proceedings againſt Seroop Chund, acted from a Senſe of their Duty in ſecuring the Company's Revenue, and juſtly puniſhed a public Servant for Contumacy and Embezzlement; or had been inſtigated by Motives of private Reſentment; directed the Clerk of the Eaſt India Company, who attends your Committee, to make particular Search in the ſubſequent Conſultations of the Governor General and Council: And he has reported in Conſequence, that he does not any where find an Anſwer from Mr. Juſtice Hyde, or any Copies of the alledged Affidavits, nor any Thing farther relating to this Subject, than what is ſaid by the Governor General and Council, upon referring the whole Proceedings to the attentive Peruſal of the Court of Directors, in the 84th Paragraph of their Letter, dated Fort William, the 18th of November, 1777, which appears in the General Appendix, N° 10, annexed to this Report.

Your Committee, in the Courſe of their Examination, find, That the Supreme Court have conſtrued their Juriſdiction equally to extend over the Lands as well as the Perſons and Perſonality of the Zemindars.—Your Committee deemed this Claim a Matter of very great Importance, and in a peculiar Manner to merit the Attention of the Houſe; as the Proceedings of the Supreme Court of Judicature, on this Caſe, appears to be a formal Declaration of Law, that the Zemindaries are ſubject to the Payment of the Debts of Individuals, independent of the Controul of that Power, from which alone the Zemindars derive their Authority.

Your Committee peruſed the 26th Paragraph of the Revenue Letter, from the Governor General and Council to the Court of Directors, dated the 19th of Auguſt 1778 (General Appendix, N° 11.) in which it was ſtated, That they had been unable to collect any Rents from the Zemindary of Futty Sing, owing to a Warrant of Sequeſtration from the Supreme Court, to ſatisfy a private Debt—That a Serjeant had been ſent up to execute this Warrant; that he had ſealed up the Cutchery (public Court) and Dufters (Records) of the Revenue of the Zemindary, and put a total Stop to the Collections.—Your Committee obſerve, That in the 28th Paragraph of the ſame Letter, the Governor General and Council inform the Court of Directors, that they thought it neceſſary to inſtitute a Suit in the Supreme Court of Judicature, againſt the Sheriff, or his Officer, for the Loſs which the Company had ſuſtained in the Collection of the Revenues by the aforeſaid Acts, eſtimating the Loſs by the monthly Kiſts or Payments, from the Time of the Arrival of the Sheriff's Officer.

Your Committee obſerve, That in the Revenue Letter from the Governor General and Council to the Court of Directors, of the 4th of December 1778, they ſtate, That Publication had been made, by Order of the Supreme Court of Judicature, for the Sale of the Zemindary, on the Suit of the ſame Parties—The Governor General and Council ſtate to the Directors, That, having obtained a Copy of the Publication made by the Sheriff, for the Sale of the above Zemindary, and being of Opinion, that the intended Act of the Sheriff was contrary to the Law and immemorial Practice of that Country, by which no Zemindary can be alienated or transferred from the actual Zemindar, or new Zemindar admitted, without the Conſent and formal Sanction of Government; and that if the Sale was permitted to take Effect, it would not only be ſubverſive of the Rights veſted in the Company and in this Government, by the Clauſe of the late regulating Act of Parliament, which enacts, "That the Ordering, Management, and Government," &c. &c.; but might eventually affect the Rights of every Zemindar in that Country; they, therefore, unanimouſly reſolved, That an Advertiſement ſhould be publiſhed, giving Notice, that no Sale or Alienation of a Zemindary could be valid, without the Conſent and Concurrence of the Governor General and Council firſt had and obtained; and, as a Mark of Reſpect to the Judges of the Supreme Court, the Governor General and Council informed them of the Advertiſement, by the Sheriff, and of the Reſolution they had taken thereupon; ſubmitting it to their Judgment, to iſſue ſuch further Orders and Inſtructions to the Sheriff, for his better Guidance, as the Nature and Circumſtances of the Caſe, and the Danger of eſtabliſhing ſuch a Precedent, might appear to them to require. General Appendix, N° 12.

Your Committee obſerve, That the Governor General and Council write to the Court of Directors, in the Letter already quoted, That they had judged it adviſeable to direct the Commiſſioner of Law Suits to aſſure the Sheriff, that if, in Conformity to the Opinion which had been given in their late Publication, he would remove his Seals, and return his Writ againſt the Zemindar, Futty Sing, nulla Bona, they would defend the Suit which might be brought againſt him in conſequence by the Plaintiff.—The Governor General and Council remark, That this Propoſition to the Sheriff was conformable to an Offer which he had previouſly made to the Commiſſioner of Law Suits.—The Governor General and Council further add, That the Court of Directors muſt be ſenſible of the Embarraſſments they labour under, in being thus obliged to give Indemnifications at the Suits of Individuals; but they remark, that it is the leaſt Evil to which the Government of Bengal is expoſed, and the only Mode which remained to prevent Conſequences of a more alarming and dangerous Tendency.

Your Committee obſerve, in the Proceedings of the Governor General and Council, in their Revenue Department, of the 21ſt of December 1779, that there is a Letter to their Board from Mr. Maxwell, and the Provincial Council of Patna, of the 13th December, ſtating, That Rajah Abkar Ally Cawn, Zemindar of the Pergunnahs Narhut and Samay, had preſented an Arzee as follows:

Copy of the Arzee from Rajah Akbar Ally Cawn.

“ There is an European with a Warrant ſent to me from Calcutta, on the Complaint of Neel Kungal Narrain, and Dutt Narrain, Bramins—They have repreſented their Caſe thus, “ We delivered in an Arzee to the Patna Council, which was ordered to be tranſlated, and the Gentlemen promiſed they would ſend us away ſatisfied;” but that afterwards on receiving 20,000 Rupees from me (Akbar Ally Cawn) they would not liſten to the Bramins: In conſequence of this, the Warrant has been ſent. As yet, both I and my People have kept out of the Way, and it has not been ſerved upon us, for we are afraid of being immediately carried to Calcutta. I am in Poſſeſſion of Lands belonging to the Company, to the Amount of ſome Lacks of Rupees; ſhould I be taken away, it will be attended with a conſiderable Loſs to Government. The Hircarrahs of the Court are continually on the watch for me and Nutty Khan. I wiſh for your Orders, whether I ſhall deliver myſelf up or not. I requeſt you will immediately write to Calcutta, to have the Warrant withdrawn; and that you will give Direction to the Perſon who brought it, to forbear ſearching for me, and interrupting the Collections. I alſo hear that Mohun Loll has taken out a Warrant againſt me, on account of Ballances due to him in this Pergunnah, by People who are not able to pay him; he therefore wiſhes to make me accountable.”

The Provincial Council at Patna informs the Council General, that an Arzee from thoſe Bramins was preſented to their Board on the 16th of April 1778, ſtating, That the Zemindarries of Narhut and Samay was their Inheritance—That Dyanat Khan and Agimerry Cawn, Afghauns, were Servants to Serry Narrain, Son of Chowdry Dirge Narrain, and Hurchunden their Grandfather—That they having ungratefully murdered Chowdry Dirge Narrain and Buder Narrain, and plundered all their Effects, their Brothers abſented themſelves to different Places for Fear of Amanut Cawn.

That theſe Bramins, in conſequence of the Proclamation from the Council of Patna, attended them, and requeſted a Perwannah, or Order, to be put in Charge of the Zemindarries as formerly.—The Provincial Council of Patna ſtate, That theſe Claimants, as alſo the Vakeel of Akbar Ally Cawn, attended the Board. The Claimants were aſked, How long it was ſince their Anceſtors were diſpoſſeſſed of their Zemindarries? to which they replied, About Sixty or Sixty-five Years.—The Provincial Council of Patna, thought all further Enquiry was unneceſſary, as the Parties acknowledged that they had been out of Poſſeſſion for a Length of Time, the Fourth Part of which would ſuffice to invalidate their Pretenſions; and accordingly diſmiſſed the Claim.

The Provincial Council of Patna ſtate, That, as to the 20,000 Rupees alledged to be given to them by Akbar Ally Cawn, the Zemindar, it is a malignant Falſhood.

The Provincial Council of Patna repreſent to the Council General, That as the Zemindar Akbar Ally Cawn has applied to them for Protection againſt the Arreſt, which they cannot grant, yet they take the Liberty to repreſent, that if Zemindars are made amenable to the Juriſdiction of the Supreme Court, and their Perſons liable to be ſeized and carried to Calcutta, the Conſequences muſt be fatal to the Revenue and Peace of this Country.—They alſo repreſent, that they cannot think themſelves reſponſible for its Security, whilſt their Endeavours may at all Times be oppoſed by the Interference of the Court, which they conceive will not only cauſe a total Loſs of the Revenue, but alſo excite a general Rebellion of the Zemindars throughout the Province.

The Provincial Council further add, That to prove the Neceſſity of receiving the immediate Orders of the Governor General and Council on this Subject, they inform that Board, that a Precept of the Supreme Court has been ſerved on Rajah Mahdoo Sing, Zemindar of Tirhoot, and on Modun Tailor, one of his principal Talookdars; and the Provincial Council add, they are informed many others are daily expected.

Your Committee find, on the ſame Day's Conſultations, a Letter from the Governor General and Council to Mr. Ewan Law, Chief, and to the Provincial Council of Patna, referring them to their general Orders of the 17th of that Month; incloſing Copies of Notification, in the Perſian and Bengal Languages, to be made to all the Zemindars, Chowdries, &c. and which Orders were then repeated.—The Governor General and Council further directed the Council of Patna to inform the Zemindars of Narhut and Samay, and of Tirhoot, that they were not ſubject to the Juriſdiction of the Supreme Court, and in that Character they were not to yield obedience to its Warrants or Summonſes.

The Governor and Council General alſo add, That apprehenſive from what has lately happened, that the Sheriff might employ Military Force to enforce the Writs of the Supreme Court, they caution the Provincial Council of Patna to be on their guard againſt any ſuch Illuſion; and on the firſt Notice of the Appearance of any Bodies of armed Men in the Province of Bahar, by what Authority ſoever they may have been deputed, excepting by the regular Orders of the Government, that they do immediately take the moſt effectual Means to apprehend them, and, if neceſſary, that they apply to the Officer of the neareſt Military Station for Aſſiſtance.

Your Committee obſerve, That in the Proceedings of the Governor General and Council, of the 10th of December 1779, Mr. Francis, One of the Members of the Supreme Council, delivers in a Minute relative to the Zemindar of Powah Colly, in the Province of Purnea—The Board, in conſequence, do call upon Mr. Harwood, the Chief of the Provincial Council of Dinagepore, to inform the Board what he knows relative to the Proceedings againſt Hurry Sing, the Zemindar of Powah Colly.

Your Committee find, That Mr. Harwood, in his Letter of the 20th of December 1779, to the Secretary of the Council, ſtates as follows: That in the Bengal year 1182, or 1775, one Aman Ullah claimed ſome Lands, ſituated in the Pergunnah of Powah Colly; but that the Zemindar denied his Right; and refuſing to relinquiſh them, an Affray enſued between the Parties, in which one Man was killed: The Officers of the Phouſdarry Court examined into the Circumſtances; and as it appeared that the Zemindar Hurry Sing and Aman Ullah were both, in ſome Meaſure, culpable, they were both ordered into Confinement—That ſome Time after their Releaſe from this Confinement, Aman Ullah cauſed another Complaint to be preferred to the Nabob, in which he ſet forth, That Hurry Sing had murdered his Wife's Brother: In conſequence of this Accuſation, the Officers of the Phouſdarry Court were directed to conduct the Zemindar to Moorſhedabad, that he might be tried before the Nabob; but that on the Road thither, they were met by an European Bailiff, who took their Priſoner from them, and carried him to Calcutta; Aman Ullah having inſtituted a Suit for Debt againſt him in the Supreme Court of Judicature.—Mr. Harwood further ſtates, That he heard the Zemindar was confined in Gaol there a conſiderable Time, but did not know by what Means he obtained Permiſſion to return to Purnea: And he alſo adds, That upon the Zemindar's arrival at Purnea, he was again put into Confinement by the Phouſdarry Officers.—Mr. Harwood further relates, That ſoon after this, another European, with a Warrant, came to Purnea; and hearing that Hurry Sing was confined in Priſon, that the Serjeant went there at Night; a Guard was at the Door, the Serjeant forced his Way in, and examined the Priſoners: Hurry Sing however eſcaped, and hid himſelf in ſome of the Neighbouring Huts for a few Days; but having heard that the Peons of the Court had gone to his Houſe in the Country, and troubled his Family, he ſurrendered himſelf to the Bailiff.—Mr. Harwood relates, That the Provincial Council of Dinagepore, upon this Occaſion addreſſed the Governor General and Council; and in conſequence of their Orders, he adviſed the Zemindar to apply to Mr. Naylor, the Company's Commiſſioner of Law Suits, and to produce Evidence to prove his Independency on the Juriſdiction of the Court—That the Provincial Council wrote to Mr. Naylor, and received his Anſwer; from which they underſtood, that Hurry Sing had before pleaded to the Juriſdiction of the Court, but as the Plea did not iſſue, it was neceſſary he ſhould defend the preſent Cauſe, and afterwards proſecute Aman Ullah for a litigious Suit; however, the Plaintiff dropt his Proſecution, and Hurry Sing again returned to Purnea.—Mr. Harwood further relates, That a few Months afterwards, another Warrant (and he was told on the ſame Complaint as the former) accompanied by Aman Ullah and the Sheriff's Officers came again, for the Zemindar Hurry Sing, and carried him a Third Time to Calcutta—That the Zemindar, after remaining in Confinement there a conſiderable Time, procured his Releaſe, and was then at Purnea.

Your Committee obſerve in the Proceedings of the Governor General and Council of Bengal, in their Revenue Department, of the 10th of December 1779, a Letter from William Holland, Proviſional Chief, and the Council of Dacca, to the Governor General and Council; incloſing the Copy of a Writ iſſued by the Supreme Court of Judicature; and ſtating, That without the Knowledge of Mr. Lodge, who was the Reſident at Belluah (a Pergunnah dependent on the Dacca Diviſion) an European Serjeant of the Supreme Court, ejected the Poſſeſſors of the Lands, ſtyled Henry Robinſon in the Writ, and gave Poſſeſſion to John Doe, viz. Ajooderam; although the former held them upon a Decree paſſed in the Adaulut againſt Chundermoney and Sherbeſſar, from whom John Doe, as appears by the Writ, derives his Title.—General Appendix, N° 14.

It appears to Your Committee, That when Mr. Shakeſpear, who was Chief of the Dacca Council, returned to his Station, he determined not to permit the Writ of Ejectment from the Supreme Court to operate in any Diſtrict under his Charge, without the expreſs Orders of the Governor General and Council; and therefore he, in Conjunction with the Provincial Council, appointed a Sezawul, or temporary Collector on the Part of Government, over the Patparrah Talook, and to publiſh a Proclamation, prohibiting the Ryots under the ſaid Talooks from paying their Rents to any Perſon whatever, but the Sezawul ſo appointed; and their Lands to be held anſwerable for ſuch Rents, without any Abatement for Payments that may be made to any other Perſon whatſoever.

It appears, That the Governor General and Council approved of the Conduct of the Provincial Chief and Council at Dacca; and directed, that a new Notice ſhould be circulated to all Zemindars and Talookdars, deſcribing what Claſs of Perſons were ſubject to the Juriſdiction of the Supreme Court.

Your Committee obſerve in the Proceedings of the Governor General and Council, in their Revenue Department, of the 9th of May 1779, a Letter from Mr. North Naylor, Attorney to the Company; repreſenting, that Actions at Law had been brought againſt Sudder al huc Cawn, the Naib Nazim, or Viceroy of Bengal, by Cojah Zekriah, and others, for the Seizure and Impriſonment of them at Moorſhedabad.—It ſtates, That the Plaintiffs are Perſons againſt whom had been alledged the Commiſſion of Forgery; and that they were ſent down from Patna to Moorſhedabad, to wait the Deciſion of the Naib Nazim, on the Trial they had undergone before the Officers of the Phouſdarry Court; but on being ſerved with Subpœnas from the Supreme Court, had been ſuffered to proceed to Calcutta, previous to any Judgment being paſſed on their Innocence or Criminality.

Your Committee find, that the Governor General and Council reſolved, That the Company's Attorney ſhould be directed to defend the Actions brought againſt Sudder al huc Cawn, Naib Nazim, by Cojah Zekeriah, and others, for the Seizure and Impriſonment of them at Moorſhedabad; and the Advocate General was directed to plead to the Juriſdiction of the Court; and if that Plea was over-ruled, to proceed on the Merits of the Cauſe.

And Your Committee obſerve, that in a Letter from Mr. Naylor, Attorney to the Company, of the 1ſt of July 1779, he informs the Secretary to the Council, that the ſeveral Actions commenced in the Supreme Court againſt Sudder al huc Cawn, the Naib Nazim, were diſcontinued by the Parties.

Your Committee find, That the Supreme Court of Judicature have exerciſed Juriſdiction over the Naib Subah, or Nabob's Deputy, in the Three Provinces.—The Naib Subah is an Officer who holds his Appointment from the Nabob of Bengal; he preſides in a Court compoſed of various Perſons ſkilled in the Mahomedan Laws, which Court ſuperintends the whole Criminal Juriſdiction of the Three Provinces: The Provincial Officers of Criminal Juriſdiction receive their Appointments from him, and make a Monthly Report of the Proceedings of their reſpective Courts to him; and no capital Sentence can be carried into Execution, until ſuch Sentence is confirmed by the Naib Subah, or the Nabob himſelf.—Your Committee obſerve, That in a Minute made by the Governor General, of the 9th of March 1780, he ſtates, That Sudder al huc Cawn, the late Naib Subah of theſe Provinces, had a Writ of Habeas Corpus ſerved upon him in his Durbar, or Court, by a Sheriff's Officer, in the Month of January 1779—That Sudder al huc, being apprehenſive of doing any Act which might be conſtrued an Acknowledgment of his Subjection to the Juriſdiction of the Court, and at the ſame Time cautious to avoid Offence, he deſired the Officer to leave the Writ on a Chair in his Preſence.—The Officer on his Return made Affidavit of the Fact, with ſuch a colouring of it, as induced the Judges to regard it as an Inſult offered to their Authority, and immediately to order an Attachment to iſſue againſt him.—The Governor General further ſtates, That fortunately the Execution of the Writ was ſtayed by an Affidavit of the Commiſſioner of Law Suits, which afforded him Time to uſe his Influence for preventing it ultimately from taking Effect; and that he was alarmed for the Conſequences which would follow from ſuch an Outrage ſo publicly offered to the Perſon of the Man, in whoſe Hands was placed the whole Criminal Juriſdiction of the Provinces, if permitted; and which could only be prevented by Means which he dreaded as much.—The Governor General adds, That he prevailed upon Sudder al huc Cawn, to write a Letter of Conceſſion to the Chief Juſtice.—The Supreme Court ordered, That the Writ of Attachment ſhould not iſſue out of the Office of the Clerk of the Crown, until the Firſt Day of the next Term, and until further Order.—The Governor General concludes with remarking, That the Writ was never afterwards enforced nor noticed, but remained impending as a Terror over the Head of the Naib Nazim, until the Day of his Death; and he believes that it exiſts even to the Day he wrote that Minute.—Your Committee find ſome ſtrong Obſervations on the Proceedings of the Supreme Court againſt Sudder al huc Cawn, in the Letter of the Governor General and Council to the Court of Directors, of the 25th of January 1780; and which are printed in the General Appendix, N° 13.

Your Committee being ſolicitous to aſcertain the Extent to which the Laws of England have been adminiſtered by the Judges of the Supreme Court of Judicature, over the native Inhabitants of Bengal, Bahar, and Oriſſa, peruſed Volumes of Records ordered from the Eaſt India Company.—Your Committee find many other Inſtances of the Interpoſition of the Supreme Court, and in Conſequence, the Exerciſe of their Juriſdiction, well worthy the Conſideration of the Houſe.—Your Committee will not ſwell the Report, by inſerting them at large in it; but under the following References they are inſerted in the General Appendix.

Repreſentation from Mr. Baber, Chief and Council at Muxadabad, to Mr. Goring, Chief and Council of the Committee of Revenue at Calcutta; incloſing the Petition of Darrudge Narrain, Aumeen in the Pergunnah of Mahomed Shahy, of 20th January 1777. General Appendix, N° 15.

Repreſentation from the Chief and Council at Muxadabad, on a Summons from the Supreme Court, for the Superintendant of the Adaulut of that Diviſion, to attend as an Evidence, of 8th September 1777. General Appendix, N° 16.

Repreſentation from Mr. Higginſon, Chief and Council at Burdwan, 27th June 1777.—Mr. Juſtice Le Maiſtre's Letter to Mr. Higginſon—his Summons—and Extract of a Letter from the Governor General and Council to the Court of Directors, of 18th November 1777. General Appendix, N° 17.

Repreſentation from Mr. Hurſt, Chief at Dacca, to the Governor General and Council, 5th January 1778, upon a Suit inſtituted againſt him, for a Decree in the Adaulut at Patna in the Year 1773. General Appendix, N° 18.

Letter from Mr. Shakeſpear, Chief and Council at Dacca, to the Governor General and Council, 6th January 1779, incloſing the Petition of Gulam Nubby, who was Malzamin or Security, for the Zemindar of Cheroleah, and ſtrongly recommending him to the Protection of Government. General Appendix, N° 19.

Minute of Mr. Shakeſpear, Chief at Dacca, dated the 2d of February 1779, on the Arreſt of Mirza Jaun, one of the Zemindars of Deccanſavagepore, with the Proceedings thereon. General Appendix, N° 20.

Mr. Shore's Minute in the Calcutta Committee of Revenue, 26 March 1779, upon ſucceeding to the Charge of Superintendant of the Adaulut, and the Board's Reſolution thereon. General Appendix, N° 21.

Extracts of Letters from the Governor General and Council to the Court of Directors, 2d April 1779, and 10th January 1780, on the Proſecution of Mr. Hoſea, one of the Members of the Council, at Muxadabad, and Rajah Dulay Roy, Dewan of that Diviſion, for a Decree in the Provincial Adaulut, &c. &c. General Appendix, N° 4.

Proceedings of the Governor General and Council, relative to the ſeizing of certain Shroffs (or Bankers) at Rungpore, by a Warrant from the Supreme Court of Judicature, commencing in May 1779. General Appendix, N° 22.

Letter, dated in September 1779, from the Rajah of Beerbhoom to the Governor General. General Appendix, N° 23.

Petition of Rajah Rugenaut Narrain, Zemindar of Patchete. General Appendix, N° 24.

Petition from Permanund Doſs, Vakeel of the Rannee of Rajeſhahy, the principal Zemindar in Bengal. General Appendix, N° 25.

Repreſentation from Couly Perſaud Sing, Dewan of Burdwan, declaring his Inability to perform his Duty, from the Apprehenſions of the Supreme Court; 10th December 1779. General Appendix, N° 26.

The Orders of the Governor General and Council for the Partition of the Zemindary of Hatinda, and the Reaſons aſſigned by the Provincial Council at Moorſhedabad, why ſuch Orders were not carried into Execution, 15th January 1780. General Appendix, N° 27.

Letter from Mr. North Naylor, Attorney to the Company, to the Secretary of the Council General, dated the 27th of January 1780, adviſing that an Attachment had been moved for in the Supreme Court, againſt the Rajah of Dinagepore. General Appendix, N° 28.

To theſe Repreſentations Your Committee have annexed, in the General Appendix, N° 29, a Letter from Mr. George Bogle, Commiſſioner of Law Suits to the Company, dated Calcutta, 7th March 1779, to Mr. David Anderſon, Preſident, and Members of the Provincial Council of Revenue for the Diviſion of Calcutta, upon a Suit inſtituted in the Supreme Court againſt the Members of a Provincial Council, for Acts of Authority done in the Exerciſe of their official Duty, and the legal Difficulties which ariſe to the Defence of thoſe Acts in the Supreme Court.

And Your Committee think it expedient, for the Information of the Houſe, to annex, N° 30, the Extracts of the Proceedings of the Preſident and Council of Fort William in Bengal, the 23d of November 1773, containing a Plan for the future Management of the Revenues of Bengal, Bahar, and Oriſſa.

Your Committee find, That the Nature and Powers of the Dewannee Adaulut are ſet forth in the Seventh Report of the Committee of Secreſy; and Mr. Boughton Rouſe informed Your Committee, That in conſequence of a Determination made by the Judges, in the Caſe of a Habeas Corpus, in 1775, the Dewannee Adaulut of the Town of Calcutta, was annulled; and all Cauſes concerning Property within the Town, between Native and Native, have ſince been tried by the Supreme Court only.—And it does not appear to Your Committee, That the Dewannee Adauluts out of Calcutta, have undergone any material Change in their Conſtitution ſince the Year 1772, when a general Plan was formed, which was alſo laid before the Houſe in the Seventh Report of the ſaid Committee of Secreſy.—But it does appear, by the Evidence of Mr. Boughton-Rouſe, that the Control which was given by the Fourth Article of the Regulations above mentioned, to the Engliſh Chiefs or Collectors in the Department of Criminal Juſtice, was entirely taken away by a Regulation of the Governor General and Council about the Month of February 1776, when the whole Criminal Juriſdiction of the Provinces was committed to the Direction of the Naib Subah, or Nabob's Deputy.

Your Committee thought it their Duty to obtain all poſſible Information reſpecting the Practice of the Supreme Court, as well as on the Expence of Suits inſtituted there; and for this Purpoſe they examined Mr. William Hickey; who informed them, That he practiſed as an Attorney at Bengal, for Eighteen Months, from November 1777 to May 1779—That he ſerved his Clerkſhip with his Father in England—That the Expence of proſecuting a Suit in Bengal is, he believes, Treble to what it would be in England—That the Fees of Court are eſtabliſhed in the Rules of Practice ſettled by the Judges, and approved by the Governor General and Council—That the Fees to the Counſel are Three Times as much as thoſe in England—That the largeſt Fee he ever gave, was Fifteen Gold Moors—That a Gold Moor is worth about Thirty-four Shillings—That if the Cauſe continued more Days than One, the Fee was repeated daily; and that a Cauſe that would in England laſt One Day, laſts there Two or Three Days—That the Expence is much encreaſed by the Diſtance of the Place where the Cauſe of Action ariſes, by the Charge of bringing up Witneſſes, and the Expence of Travelling, which, he underſtands, is much greater there than in England—That it is common for a Party living at a Diſtance, to ſend a Vakeel or native Agent, who employs an Attorney at Calcutta to tranſact his Buſineſs; ſo that in that Country, every Perſon having a Cauſe, and not attending himſelf, muſt employ an Attorney and a Vakeel.—Being aſked, What was the firſt Proceſs iſſued by the Supreme Court, in the different Civil Actions brought againſt native Inhabitants of Bengal? informed Your Committee, That there are but Two Sorts of Proceſs, one by Summons, the other by Capias—That the Firſt requires an Appearance being entered upon the return of the Summons—That the Capias holds to Bail; for which Reaſon the native Plaintiffs always wiſhed to have a Capias.—Being aſked, In what Caſes the Supreme Court iſſues a Summons? he ſaid, In Caſes of Debt; if it is under One hundred Rupees, you can have no other Writ but a Summons, and that Summons iſſues of courſe, without any Affidavit, if the Defendant reſides within Calcutta, or its Limits; if out of Calcutta, the Plaintiff muſt make Affidavit, ſtating how the Defendant is ſubject to the Juriſdiction.—Being aſked, In what Caſes the Supreme Court iſſues Writs of Capias? he ſaid, In Debts of above One hundred Rupees, and Matters of Wrong.—The Perſon complaining makes Affidavit of the Circumſtances; that Affidavit is carried before a Judge, who adminiſters the Oath, and orders the Capias, with Bail, in any Sum that he thinks the Wrong may require. In Actions of Debt, the Bail is generally double the Amount of the Debt; but upon this Subject he begs leave to refer to the Rules and Orders of the Supreme Court, which have been laid before the Committee.—Being aſked, Whether it is eaſy for the native Inhabitants to find Bail? he ſaid, It is not difficult for an Inhabitant of Calcutta to obtain Bail, provided he has Money.—He believes, that in Fifteen Actions out of Twenty, the Bail are hired; that if they were not hired, he believes that it would be very difficult to procure Bail; that it would be almoſt impoſſible for a Perſon coming from any Diſtance to procure Bail, unleſs he uſed the ſame Means, that of hiring Bail; that there are great Numbers committed to Gaol for want of Bail; that he believes there are more Inſtances of Perjury in the Court, relative to Bail, than in any other Court.—Being aſked, Whether it is cuſtomary to oppoſe Bail, when they come to be juſtified? he ſaid, It is, but he never recollects to have ſeen Bail refuſed, unleſs their Perjury was evident by Prevarication before the Court.—Being aſked, What is the Fee to Counſel for juſtifying or oppoſing Bail? he ſaid, One Gold Mohur to the Counſel, which is about One Pound Twelve Shillings Sterling.—Being aſked, when a Perſon made Affidavit of Debt before a Judge, and of the Defendant being ſubject to the Juriſdiction of the Supreme Court, whether it was uſual for the Judge to examine the Plaintiff, as to the particular Circumſtances which brought the Debt within the Juriſdiction? he ſaid, Such Perſons as he carried before a Judge, were always examined very ſtrictly; but with other Attornies that was not the Caſe—That he has ſeen the Judge grant Writs of Capias, without aſking any Queſtions of the Perſon making ſuch Affidavit.—Being further aſked, Whether Writs were ever refuſed on Affidavits offered by him? he ſaid, Several, and that Two were afterwards granted upon the Application of Mr. Wroughton, his Clients having quitted him and employed Mr. Wroughton.—Being aſked, If they were granted upon further Examination, or freſh Affidavit? he ſaid, The Affidavit of courſe was re-drawn, but there was no new Matter in it.—Then being aſked, To what Judge he alluded? he ſaid, To Mr. Juſtice Hyde, the only Judge who acted in Calcutta in Buſineſs out of Court, after the Death of Mr. Le Maiſtre, who died ſome Time in the Month of November 1777, a few Days after the Witneſs's arrival in Calcutta.—Being aſked, How it came that Mr. Juſtice Hyde was the only Judge that tranſacted this Part of the Buſineſs? he ſaid, From his being the only Judge reſident in Calcutta.—Being aſked, Whether in any Actions of Wrongs, and for Debt of above One hundred Rupees, a Native can plead to the Juriſdiction, and have that Plea tried without giving Bail, or going to Gaol? he ſaid, Moſt certainly not.—Being aſked, What would be the Expence of a Plea to the Juriſdiction of the Court in a common Caſe, where the Defendant reſides at no great Diſtance from Calcutta? he ſaid, He ſuppoſed full Five hundred Rupees, Two hundred of which would be allowed on the Taxation between Party and Party, if his Plea was admitted; but that if the Native was reſident in a diſtant Province, it is impoſſible to ſay what the Expence might amount to. Being aſked, If he had any Opportunity of knowing what Deſcription of Men the Supreme Court of Judicature think themſelves empowered to ſubpœna as Witneſſes? He ſaid, He believes they think themſelves empowered to ſubpœna Perſons of all Ranks; that he has known Rajahs ſubpœned as Witneſſes; that he heard the Chief Juſtice declare from the Bench, That in caſe of Refuſal of any Perſon ſo ſubpœned to attend, or even of a Perſon abſenting himſelf, in order to avoid being ſerved, that the Court was empowered, and would moſt certainly inflict corporal Puniſhment; and that the Clauſe by which they were ſo authorized, was inſerted in the Charter at his expreſs Deſire.—Being aſked, Whether in Cauſes of long Duration, or great Conſequence, the Expences in that Court are not very heavy? he ſaid, Yes; that the moſt expenſive Cauſe he ever managed in that Country, was for Colonel Watſon, which was concluded within the Third Term, and that his Bill amounted to upwards of Seven thouſand Sicca Rupees, or Eight hundred Pounds; that in the Patna Cauſe, the Plaintiff's Attorney's Bill, ſome Time before the Concluſion of the Cauſe, amounted to upwards of Forty thouſand Sicca Rupees, about Four thouſand Five hundred Pounds; that this was told him by Mr. Wroughton, one of the Attornies in the Suit.—Being aſked, If he knows any Thing of the Number of Cauſes annually tried in Calcutta? he ſaid, He ſuppoſed, that in the Time he reſided there, there were upon an Average at leaſt Fifty in each Term and Sittings, and there are Four Terms in a Year.—Being aſked, Whether it often happened that a ſingle Judge formed a Court for the Deciſion of Civil or Criminal Suits? he ſaid, It was very frequently the Caſe, and once during his Reſidence, almoſt for a whole Term and Sittings.—Being aſked, If that ſingle Judge exerciſed the Power of aſſeſſing Damages for perſonal Injuries? he ſaid, He acted in the ſame Manner as if the Four were preſent.—Then being aſked, Whether he thought in the Courſe of his Practice, that ſubſtantial Juſtice had often failed of being obtained, for want of legal Formality in the Inſtruments exhibited to ſupport the Claims? he informed Your Committee, That in many Inſtances it had, particularly in Agreements between Europeans and Natives, and that ſome of theſe Agreements had been made before the Eſtabliſhment of the Supreme Court of Judicature.

Then Thomas Farrer, Eſq; a Member of Your Committee, was aſked, To what did he attribute the Abolition or Suſpenſion of the Court of Dewannee Adaulut of Calcutta? he informed Your Committee, That the Supreme Court of Judicature has uniformly, as he has always underſtood, held, that all the Inhabitants of Calcutta and its Environs within the Limits of the Mahratta Ditch, of whatſoever Deſcription, are in all Caſes, both Civil and Criminal (ſave in Matters of Revenue due to the Eaſt India Company, and ſuch trifling Matters as come within the Cognizance of the Court of Conſcience) ſubject to the Juriſdiction of that Court, excluſive of all other Courts whatſoever; and that no Native Court has a concurrent Juriſdiction with the Supreme Court. To this general Principle, ſtrictly adhered to in Practice, he attributes in a great Meaſure the Abolition or Suſpenſion of the Court of Dewannee Adaulut, within the Town of Calcutta.—And being aſked, If during the

Time of his Practice as a Barriſter at Law in the Supreme Court, he had known any conſiderable Inſtance of Relief afforded to the Natives againſt the Oppreſſions and Exactions of Europeans in Power, or Banyans acting under them? ſaid, From the very great Variety of Buſineſs that came before him, he cannot at this Diſtance of Time pretend to point out particular Inſtances; there have been Inſtances no doubt, ſuch as Bonds pleaded to have been obtained by Dureſs; Notes or Tepes given to Europeans, or their Banyans or Servants, without any pecuniary Conſideration, and Actions of Aſſault and Battery, againſt Natives employed by the Government of that Country, in which, Relief by the Court has been given to the reſpective Parties; but ſaid, theſe Caſes are but few in Number, and of inferior Conſequence, ſuch at leaſt as at preſent ſtrike his Memory.—Being aſked, If he ever heard that the late Mayor's Court at Calcutta was remarkably deficient in affording Redreſs to Caſes of that Nature? ſaid, That from the Idea he entertained of the Integrity and Impartiality of that Court, he conceived that Redreſs would have been granted in all the Caſes by him above alluded to, ſuppoſing that Court to have had Juriſdiction over them.—Being aſked, If he thought that the Natives would have been afraid of applying for Redreſs to a Court ſo conſtituted? ſaid, That in many Caſes he thought they would; and that the Conſtitution of that Court, conſidering the Extent of Territory and Influence our Nation now poſſeſſes in that Country, was very defective.—Being aſked, If he knew of any Inſtances in the Supreme Court, in which the Parties failed in obtaining ſubſtantial Juſtice, from the Defects or Errors in the Forms of Proceedings? ſaid, A great many, no doubt.—Being aſked, Whether the Tranſactions of that Country are eaſily reconcileable with the ſtrict Obſervance of the Forms and Proceedings of our Court? ſaid, No, in many Caſes very difficult.—Being aſked, Whether the Rules of Evidence obſerved by that Court, are any Obſtruction to the obtaining ſubſtantial Juſtice? ſaid, He thought not; Difficulties frequently occurred, but they were generally got over, and in ſeveral Inſtances the Court gave it to be underſtood as a Matter of Favour, rather than a Matter of Right.—Being aſked, Whether he did not think that a more ſimple Mode of Proceeding than that uſed in the Supreme Court, would be conduſive to ſubſtantial Juſtice, without Injury to the Certainty of legal Proceedings? ſaid, That both in the Conſtitution of the Court, and in the Forms and Practice, he thought that many Improvements might be made.—Being aſked, If he had not had an Occaſion to form an Opinion in the Courſe of his Practice, that the Natives of Indoſtan are leſs ſcrupulous of Perjury than in other Nations? ſaid, They are extremely apt to evade and equivocate, and from the Difference between the Idiom of their Language and ours, joined to the natural Diſpoſitions abovementioned, with the additional Circumſtance of their Evidence being taken from the Medium of an Interpreter, who does not always well underſtand our Language, he has frequently found it impoſſible to get a direct Anſwer from them, but in many Caſes, direct apparent Contradictions appear between the Evidences produced by the different Parties.—Being aſked, If he recollected any Inſtances of Men, who had been ſentenced as Criminals to work on the Roads, being releaſed by the Authority of the Supreme Court? ſaid, That at the Time of the Eſtabliſhment of the Supreme Court, many Perſons of this Deſcription in the Town of Calcutta, were confined by the Authority of the Country Courts of Criminal Juriſdiction. By a Reference to the Proceedings of the Governor General and Council, he believes it will be found, that various Meſſages and Applications paſſed between the Judges, or ſome of them, and the Governor General and Council, touching the Releaſe of ſuch Perſons; that the Governor General and Council declining to diſcharge them, he has heard and believed, that moſt or all of ſuch Perſons were diſcharged by the Authority of ſome One or more of the Judges.—Being aſked, What was the Conſequence of this general Releaſe? ſaid, Great Diſorders enſued by the Commiſſion of a great Number of Robberies in the Town and Environs of Calcutta; ſome of them, as he has heard and believed, by a Number of armed Banditti in open Day; the general Opinion was, that theſe Diſorders proceeded from the Releaſe abovementioned, and the Conſequent Suſpenſion of the Authority which confined them; inſomuch, that the Officer called Superintendant of Police, was permitted to reſume its Functions in the uſual Manner.—Being aſked, Whether the Superintendant of the Police acted as an Officer of the Phouſdarry Court, or whether he proceeded according to the ſtrict Rules of the Engliſh Criminal Law? ſaid, He was certainly an Officer or Perſon employed by the Criminal Juriſdiction of the Country, and has not, as he conceived, any Connection with the Engliſh Laws.—Being aſked, What Rule the Court obſerved in granting Writs of Habeas Corpus? ſaid, The ſame Rule he conceived as in the iſſuing all the other Proceſs of the Court, that is, taking Care that a proper Ground is made to them, to ſhew that the Perſon in whoſe Cuſtody the Perſon applying for a Habeas Corpus, is charged to be an Object of the Juriſdiction of the Court.—Being aſked, Whether in Actions of Wrong, or for Debt of above One hundred Rupees, the Defendant can plead to the Juriſdiction without giving Bail or going to Gaol? ſaid, That ſuppoſing an Order to be made by a Judge for holding the Defendant to Bail; in that Caſe he certainly cannot plead to the Juriſdiction of the Court without giving Bail or as a Priſoner.—Being aſked, If Bail for large Sums was eaſily obtained in the Provinces? ſaid, That muſt entirely depend upon the Degree of Credit that the Defendant poſſeſſes; but in general he ſhould think it difficult; and for the moſt Part, during the Time he was in the Country, Defendants of this Deſcription were generally brought to Calcutta for want of Bail.—Being aſked, If the Court ever granted a Habeas Corpus to bring up the Body of a Mahomedan or a Gentoo Woman? ſaid, That he was concerned as Counſel in One ſuch Inſtance: A Return was made, ſtating, that this Woman could not be produced in Court without Diſgrace, and therefore ſubmitting it to the Court, that the Matter ſhould not be further proſecuted: There being no Oppoſition made to this Return, the Court obſerved, it muſt for that Reaſon be received, and filed ſub Silentio.—Being aſked, If he had any Opportunity of knowing what Deſcription of Men the Supreme Court of Judicature thought themſelves impowered to ſubpœna as Witneſſes? he ſaid, He believed they ſubpœned all Perſons of what Deſcription ſoever, in the Provinces of Bengal, Bahar, and Oriſſa.

Your Committee again examined Mr. Joſeph Price; who being aſked, If he knew of the Releaſe of the Zemindarry Priſoners, by Order of the Judges, or any One of them? he ſaid, He remembered it very well—That all the Inhabitants of Calcutta were extremely alarmed at it—That he was obliged to be at the Expence of Six or Eight Peons to guard his own Property, which he thought before very ſecure—That his Agents and Servants daily brought him Accounts of unuſual Robberies, and other Violences, committed by the Priſoners who had been diſcharged—That many of the European Inhabitants returned to their Houſes more early than uſual, to ſee their Property ſecured, which they thought in as much Danger from the Releaſe of the Convicts, as the People in England would from a general Releaſe from all the Priſons and Ballaſt Lighters.

Being aſked, If the Supreme Court had proceeded upon the ſtrict Formalities of Engliſh Law Courts, or with the Diſcretion formerly exerciſed by the Mayor's Court, as a Court of Equity? he ſaid, They have proceeded upon the ſtrict Formalities, with a Severity inconceivable to the Natives—That in the Mayor's Court the Proceedings were very ſimple and plain, and as few technical Terms permitted to be uſed as poſſible by the Attornies or Lawyers, in order that the Inhabitants who underſtood Engliſh, and who were preſent in the Court, might underſtand the Proceedings of that Court.—Being aſked, If he thought many Inſtances have ariſen in Suits, either of Natives or Europeans, where a rigid adherence to ſtrict legal Formalities has prevented ſubſtantial Juſtice? he ſaid, He thought it not only had prevented ſubſtantial Juſtice, but had prevented People applying to the Supreme Court of Judicature for Juſtice.

Being aſked, If there was not a great Reſpondentia Cauſe before the Supreme Court of Judicature, whilſt he was at Calcutta? he ſaid, He was ſummoned by the Court to give his Opinion upon a Reſpondentia Cauſe then depending; when the Form of Law totally deſtroyed all their Cuſtoms in India, in the Mode of lending and borrowing of Money on Reſpondentia, and rendered his Experience of more than 25 Years inſignificant.—Being aſked, Whether in conſequence of the Deciſion paſſed in that Inſtance, Merchants were not obliged to make an entire Alteration in the Form of their Reſpondentia Bonds throughout India, in order to give them a legal Validity? he ſaid, They certainly were; and that the ſame Remark applies to every Inſtrument and Obligation uſually made between Man and Man, that they had very little Law before the Inſtitution of the Court, but a great deal of Juſtice.

Your Committee then examined Mr. John Mills, who ſaid, That he had reſided in Bengal 21 Years—That he left it the 14th of January 1778—That he was Superintendant of the Police.—Being aſked, Whether he knows of any Circumſtances of certain Criminals ſentenced by the Phouſdarry Court of Calcutta to work on the public Roads, being releaſed by Order of the Supreme Court, or any Judge of that Court? he informed Your Committee, That he received a Note from Mr. Juſtice Le Maiſtre, whilſt he was Superintendant of the Police, informing him that on the following Day he ſhould be ſerved with an Habeas Corpus, to bring up all the Priſoners that were under his Charge, before the Supreme Court, at the Court Houſe—That the Note recommended to him to deliver them all up, as he could not aſſign any legal Reaſon for the detaining thoſe that might have been delivered to him when he received the Charge of the Office, or ſuch as might have been committed during the Time he had been in Office. And accordingly on the next Day he attended before the Court with the Priſoners, and delivered them up—That the Number of them was between 60 and 70—About 30 of them had ſmall Irons about their Legs, and that they were coupled together, Two and Two.—Being aſked, For what Offences theſe Thirty Priſoners were put in Irons? ſaid, For various Kinds of Thefts.—Being aſked, What was the uſual Term of their Sentence for working on the Roads? he ſaid, When he received the Office ſome of them were ſentenced for Life—That after he held the Office, the longeſt Term was for 6 Months, and he thinks only Two for that Time.—Being aſked, What were the Conſequences reſulting from the Releaſe of theſe Convicts? he ſaid, That the native Inhabitants of Calcutta were thrown into great Apprehenſions and Alarm, and not without Reaſon—That as near as he can recollect, One-third of the Number of theſe Convicts, or more, were taken up for committing various Crimes within the Space of Three Weeks—That Numbers of the Inhabitants, to his own Knowledge, hired Men to guard their Houſes, and to protect their Perſons and Property—That upon examining theſe People when brought before him, they acknowledged that they had no other Means of Subſiſtence than by robbing and plundering—That he then ſent them to the ſitting Juſtice, with the Proofs and Witneſſes of the Crimes they had committed, and that they were in general, as he underſtands, diſmiſſed.—Being aſked, What Effect the Conduct of the Judges in this Part of their Proceedings had upon the Powers of his Office? he ſaid, It took away the whole Power, and rendered it totally uſeleſs, and an unneceſſary Expence to the Company—That he was frequently inſulted in the Diſcharge of what he thought the Duties of it, keeping the Peace and protecting the Inhabitants.

Then being aſked, By what Rule he proceeded as Superintendant of the Police; whether by the

Engliſh or the Mahomedan Law, or how otherwiſe? he ſaid, By the Mahomedan Law in every Reſpect, to the beſt of his Knowledge.—Being aſked, Whether he underſtood the Mahomedan Law himſelf, or had any Perſon belonging to his Court or Cutchery who did underſtand it? he ſaid, He did not perfectly himſelf, but he had Two Natives, one a Moulavie, and the other the Dewan of the Court, who were deemed competent in the Knowledge of that Law.—Being aſked, Who appointed thoſe Perſons? he ſaid, They were left to his own Appointment.—Being aſked, Whether the Proceedings of his Court were recorded? he ſaid, Every Day.—Being aſked, If there was any regular Record kept of all thoſe Zemindarry Priſoners releaſed by His Majeſty's Juſtice? he ſaid, He did not doubt there was; but he never had it in his Poſſeſſion—That he underſtood it was in the Office of the Secretary of the Supreme Council, and was called the Proceedings of the Court of Zemindarry.—He further informed Your Committee, That he did not hold the Office before the Eſtabliſhment of the Supreme Court.

Major Rennell was again examined by Your Committee: And being aſked, Whether he thinks the People in the Country Villages can conform themſelves to the Engliſh Laws, or take Advantage of them to ſcreen themſelves from the Oppreſſions of their Superiors, without the Advantage of one or more reſident Engliſh Attornies? he ſaid, He does not think they could, either with or without them.—Being aſked, Whether the Engliſh Attornies learn enough of the Language in a ſhort Time, to be uſeful to the People in their Profeſſion? he ſaid, Undoubtedly it would be ſome Time before they could learn the Language; but when they had, he ſhould imagine the Inhabitants would not in general employ them; becauſe before he left Bengal, a general Complaint was made of the Exorbitancy of their Charges.—Being aſked, What would be the Effect of many Attornies ſettling in that Country? he ſaid, If he could ſuppoſe they could get Buſineſs, he ſhould imagine a general Transfer of Property throughout the Province.—Being aſked, Whether the Ignorance of the Natives in the Engliſh Laws and Language, would not put them wholly in the Power of ſuch Attornies? he ſaid, Undoubtedly, to thoſe who employed them.—Being aſked, If ſuch Attornies ſhould be corruptly diſpoſed, would they not have a Power of oppreſſing and vexing the Natives, and doing as much Injury to their Property as other Engliſhmen employed in the Company's Service? he ſaid, He thinks they would have more Opportunities.

Your Committee again examined Edward Baber, Eſq; who being aſked, Whether Muxadabad is not the Reſidence of the Nabob of Bengal, and many Men of Family and liberal Education? he ſaid, Yes.—And being further aſked, Whether he had not an Opportunity, during his Reſidence at that Capital, of learning the Sentiments of Men of Rank with Regard to the Introduction of the new Engliſh Judicature? ſaid, He had many; that he found them uniformly averſe to it; that he has even had Applications from Men of the Firſt Rank, to know in what Manner they could proceed, in order to be freed from it; and that they have profeſſed to him that they would certainly petition the Governor General and Council to this Purpoſe, if they were not afraid of the Power of the Supreme Court—That he has known Inſtances of Perſons of Rank wiſhing to quit the Engliſh Territory, from a Diſlike of this Judicature; that Rajah Dolchunt, a principal Banker, and a Man of the Firſt Rank in that Claſs, aſſured him, that he had been ſo vexed with Summonſes, the Proceſs of which, to a Man of his Rank, is a Diſgrace, that it induced him to go to Benares, out of the Juriſdiction of the Court, where he determined to reſide to avoid theſe diſgraceful Proceſſes: And the Witneſs has been informed, that one of the Family of the Seats had retired upon the ſame Principle.

Being aſked, If Men of Rank are obliged to leave the Country, what Effect it would have upon the inferior Claſſes, and whether their Condition would be improved by it? he ſaid, He conceives that the Effect of monied Men leaving any Country, muſt be bad, and in that particularly ſo, becauſe theſe Bankers are the Agents through which many of the Zemindars, and others, tranſact the Buſineſs of their Collections.—Being aſked, What he conceives would be the Effect of the Judgment of the Supreme Court, relative to the Farmers of Lands and their Securities being deemed amenable to its Juriſdiction? he ſaid, It would totally annihilate the preſent Plan of Collections, and prevent the Natives of Character holding Farms, or becoming Securities.

Then being aſked, Whether, if previous to the Appointment of the Judges, a ſubordinate Officer ſhould have been protected by the Governor General and Council, or a Majority in Council, in any Miſdemeanor or Miſconduct, was there any Redreſs in Bengal for the Sufferers by any ſuch Miſdemeanor or Miſconduct? he ſaid, He ſhould apprehend not; becauſe the Governor and Council, as Repreſentative of the Dewan or principal Officer, have no Superior but the Court of Directors.—Being aſked, Whether he has not heard many Complaints of the Miſbehaviour and Miſconduct of Europeans, in the Service of the Company, or other Britiſh Subjects or Natives acting as their Agents or Servants? he ſaid, He had heard of ſuch Complaints.—And being aſked, Whether he thought ſuch Complaints were without Foundation? He ſaid, He imagined they were not without Foundation.—Then being aſked, Whether he does not think it would be inconvenient to the Country, if there was no Mode of Redreſs nearer to the Natives than Weſtminſter Hall, or the Court of Directors? he ſaid, Moſt aſſuredly.

Then being aſked, From his Knowledge of the State of Bengal, Bahar, and Oriſſa, if the Juriſdiction of the Judges was clearly defined, and properly limited, ſo as to check the Abuſes which Europeans, or Perſons bonâ fide their Agents, may be guilty of, whether ſuch an Inſtitution would not be of great Benefit to the Country? he ſaid, It is Matter of Opinion; and in his humble Apprehenſion, it would be of great Benefit.

The Witneſs being further aſked, Whether the Juriſdiction of the Supreme Court, continued in its preſent Form, would have any Tendency to introduce Principles ſubverſive of the Subordination and Well-being of a Government ſo conſtituted as that of Bengal, Bahar, and Oriſſa? ſaid, That he thought it certainly would, becauſe the Principles of the one are diametrically oppoſite to the other.

Upon hearing the Evidence of Mr. William Hickey, relative to the Declaration of the Chief Juſtice, Sir Elijah Impey, from the Bench, “ That in caſe of Refuſal of any Perſon ſubpœned to attend, or even of a Perſon abſenting himſelf in order to avoid being ſerved with a Subpœna, that the Court was impowered, and would moſt certainly inflict corporal Puniſhment,” Your Committee examined the Charter of Juſtice, by which the Supreme Court of Judicature in Bengal was inſtituted; and they do find, in Page 12, as follows: “ To which End we hereby authorize and impower the ſaid Supreme Court of Judicature at Fort William in Bengal, at the Requeſt of either of the Parties, to award and iſſue a Summons, or Precept in the Nature of a Summons, to be prepared in Manner before-mentioned, directed to every one of ſuch Witneſſes, commanding him or her to appear at a Time and Place to be ſpecified in ſuch Summons, to depoſe his or her Knowledge, touching the Suit ſo depending between the Parties, naming them, and ſpecifying at whoſe Requeſt ſuch Summons ſhall have iſſued.”—And in Page 13 of the Charter, Your Committee find as follows: “ And in caſe any Perſon or Perſons ſo ſummoned, ſhall refuſe, or wilfully neglect, to appear and be ſworn, or, being Quakers, to affirm, and be examined, and ſubſcribe their Depoſitions, as the Supreme Court of Judicature at Fort William in Bengal, ſhall appoint, the Supreme Court of Judicature at Fort William in Bengal, is hereby impowered to puniſh ſuch Perſon or Perſons ſo refuſing, or wilfully neglecting, as for a Contempt, by Fine, Impriſonment, or other corporal Puniſhment, not affecting Life or Limb.”

Your Committee then examined the Act of Parliament of the Thirteenth Year of His preſent Majeſty, under the Authority of which the ſaid Letters Patent were granted, and find only the Two following Clauſes which ſeem to have any Relation to this Matter.—“ That it ſhall and may be lawful for His Majeſty, by Charter or Letters Patent, under the Great Seal of Great Britain, to erect and eſtabliſh a Supreme Court of Judicature, at Fort William aforeſaid, to conſiſt of a Chief Juſtice, and Three other Judges, being Barriſters in England or Ireland of not leſs than Five Years ſtanding, to be named from Time to Time by His Majeſty, his Heirs and Succeſſors; which ſaid Supreme Court of Judicature ſhall have, and the ſame Court is hereby declared to have, full Power and Authority to exerciſe and perform all Civil, Criminal, Admiralty, and Eccleſiaſtical Juriſdiction, and to appoint ſuch Clerks, and other Miniſterial Officers of the ſaid Court, with ſuch reaſonable Salaries, as ſhall be approved of by the ſaid Governor General and Council, and to form and eſtabliſh ſuch Rules of Practice, and ſuch Rules for the Proceſs of the ſaid Court, and to do all ſuch other Things as ſhall be found neceſſary for the Adminiſtration of Juſtice, and the due Execution of all or any of the Powers, which by the ſaid Charter ſhall or may be granted or committed to the ſaid Court; and alſo ſhall be, at all Times, a Court of Record, and ſhall be a Court of Oyer and Terminer and Gaol Delivery, in and for the ſaid Town of Calcutta, and Factory of Fort William in Bengal aforeſaid, and the Limits thereof, and the Factories ſubordinate thereto.”—“ Provided neverthleleſs, and be it further Enacted by the Authority aforeſaid, That the ſaid new Charter, which His Majeſty is herein before impowered to grant, and the Juriſdictions, Powers, and Authorities to be thereby eſtabliſhed, ſhall and may extend to all Britiſh Subjects who ſhall reſide in the Kingdoms or Provinces of Bengal, Bahar, and Oriſſa, or any of them, under the Protection of the ſaid United Company, and the ſame Charter ſhall be competent and effectual: And the Supreme Court of Judicature therein and thereby to be eſtabliſhed, ſhall have full Power and Authority to hear and determine all Complaints againſt any of His Majeſty's Subjects, for any Crimes, Miſdemeanors, or Oppreſſions, committed or to be committed; and alſo to entertain, hear, and determine, any Suits or Actions whatſoever, againſt any of His Majeſty's Subjects in Bengal, Bahar, and Oriſſa, and any Suit, Action, or Complaint, againſt any Perſon who ſhall, at the Time when ſuch Debt or Cauſe of Action or Complaint ſhall have ariſen, have been employed by, or ſhall then have been, directly or indirectly, in the Service of the ſaid United Company, or of any of His Majeſty's Subjects.”

Your Committee, on reading the Petition of the Britiſh Inhabitants of the Provinces of Bengal, Bahar, and Oriſſa, obſerve, that it preſents Two principal Objects to the Conſideration of the Houſe; Firſt, their Application for Trial by Jury, in Civil as well as Criminal Caſes; and Secondly, For ſome Regulation on the Admiſſion or Rejection of Evidence in Trials before the Supreme Court, or on Appeals from their Judgment. With regard to the latter, Your Committee conceive, that the Propriety of the Application will depend more upon Principles and Reaſonings to be ſuggeſted by the Wiſdom of the Houſe, than on any Enquiry into Matter of Fact competent to this Committee;

and as to the former, Your Committee will now lay before the Houſe the Reſult of their Examinations on that Object.

Mr. William Hickey being again examined by Your Committee, was aſked, Whether he knows of any Inſtances in which the Judges of the Supreme Court at Calcutta have refuſed Trial by Jury in Civil Caſes? ſaid, He did, in Two Actions brought againſt Mr. Creaſſy—That the Britiſh Inhabitants petitioned the Court for Trial by Jury, and in that Petition made a voluntary Tender of their Services as Jurors, provided the Court ſhould grant the Prayer of their Petition—That the Judges gave a written Anſwer, wherein they referred the Petitioners to the Anſwer they had before verbally given to Mr. Creaſſy.—Being aſked, Whether the Engliſh in general ſhewed a great Readineſs to ſerve upon Juries? he ſaid, After the Buſineſs of the Petition was ſet on Foot, they did.—Being aſked, If he knows any Inſtances of Britiſh Subjects, wiſhing to avail themſelves of an Exemption by Offices or otherwiſe, from ſerving upon Juries? he ſaid, That he has heard of ſeveral, and can ſpeak poſitively to ſome public Officers of the Company; and the Reaſons he believes are aſſigned on the Company's Records; and that he has heard a great many Complaints of the Difficulty of obtaining Juſtice from the want of Trial by Jury. Being aſked, If he knew the number of Britiſh Houſeholders of Calcutta, within the Mahratta Ditch? he ſaid, He ſhould ſuppoſe about Four hundred, more or leſs.—Being aſked, If he can judge how many of the Four hundred were allowed to be exempted from ſerving on Juries, by the Offices they held under the Government? he ſaid, When he came away, none, except the Governor General and Council—Being aſked, Whether, when thoſe Exemptions were granted by the Court, they were granted as Matter of Right, or Indulgence? he ſaid, They were certainly granted as Matter of Indulgence.—Being aſked, What he ſuppoſed to be the Number of thoſe reſiding in and about the Town of Calcutta, who were allowed to be exempted from ſerving on Juries? he ſaid, He ſhould ſuppoſe they might be about Forty.—Being aſked, If he knows what Reaſons were given by the Advocates of the Court, for refuſing to undertake the Argument of the Demurrers on the Part of the Defendant Creaſſy? he ſaid, Two of them refuſed generally, without aſſigning any Reaſon; a Third, becauſe he ſhould not ſucceed; and a Fourth, becauſe he would not fly in the Face of the Court.—Being aſked, Whether he was in Calcutta when a great Reſpondentia Cauſe was tried in the Supreme Court? he ſaid, He was, but did not attend that Cauſe; but that it was conſidered in Calcutta as a Cauſe of great Conſequence to the Commercial Intereſt of that Place.—And being examined, as to what he had generally heard concerning that Proceeding? he ſaid, He had heard it commonly ſtated as a Matter of Complaint among the Parties intereſted in that Suit, and among Merchants in general, that it was not decided by a Jury, as ſuch a Caſe would have been in England.—The Witneſs ſaid further, That he had often heard in public Converſation, the Determination of that Caſe mentioned as an Inſtance of the Neceſſity of eſtabliſhing a Trial by Jury.—Being aſked, If he knew whether in that Caſe the Judges examined into the local Uſages and Cuſtoms of Merchants in that Country; or whether they proceeded according to the ſtrict Rules of Weſtminſter Hall? he ſaid, That he has heard in Converſations, that they formed their Opinions from the ſtrict Letter of the Common Law of England: He has alſo heard, that the Proceſs of the Court in that Caſe, did diſcover ſome Informality in the Mode, which had at all Times prevailed in Calcutta, of drawing Reſpondentia Bonds, and which had almoſt proved fatal to the Plaintiffs, and which tended to vitiate all Reſpondentia Bonds then exiſting: And that the Proceedings in that Caſe greatly alarmed the Trading Inhabitants of Calcutta, and were the Subject of public Diſcuſſion for a long Time.—Being aſked, Whether the Reſpondentia Buſineſs was not the great Support of the foreign Trade from the Port of Calcutta? he ſaid, It certainly was.

Your Committee then examined Mr. James Creaſſy; who being aſked, If there was any Action brought againſt him in the Supreme Court of Judicature at Calcutta? informed Your Committee, That there were Two; that the Plaints were laid for an Aſſault and Battery, and a Breach of the King's Peace; and that the Damages in each Action were laid at Ten thouſand Rupees; that they were tried without a Jury; that in both Actions he applied to all the Advocates to argue the Demurrers, which were filed to his Pleas, in order to obtain that Right, and they all refuſed their Aſſiſtance; and that he was therefore under the Neceſſity of appearing in Perſon in the Supreme Court to argue the Demurrers.—Being aſked, What Grounds the Advocates alledged for their Refuſal of their Aſſiſtance? he ſaid, One informed him, that he would not take his Money, becauſe he could not be of any Service to him; but it appeared evident to him, that they were deterred from arguing that Point of Law by the Supreme Court.—Being aſked, When he claimed a Trial by Jury as his Right publicly in the Supreme Court, what Anſwer the Court made to his Claims? he ſaid, They refuſed it, and ordered the Cauſes to be ſet down ex parte.—Being aſked, Upon what Grounds the Court refuſed it? he ſaid, They aſſerted a Power of trying all Civil Cauſes, whether Actions of Treſpaſs or for Debt, by virtue, as he underſtood, of His Majeſty's Charter; and declared, they had no Power to ſummon a Jury in ſuch Caſes.—The Witneſs being further aſked, Whether he had or had not, in any Caſe, declined ſerving upon a Jury, as not reſiding within the Limits of Calcutta? ſaid, He was ſubpœned to ſerve upon a Jury, to try ſeveral Natives as Criminals, and finding himſelf particularly diſqualified by the Letter of the Act of Parliament, he ſtated this Diſqualification to the Chief Juſtice, who, after ſome Argument, was pleaſed to acknowledge, that he was right; and that he was therefore releaſed from his Attendance.—Being aſked, Whether many other of the Engliſh reſiding within Calcutta or its Dependencies, have not endeavoured to avail themſelves of Exemptions from ſerving on Juries in Criminal Caſes? he ſaid, He does not know of any particular Inſtance; but he has heard ſome of the Britiſh Inhabitants rather wiſh to decline ſerving on Juries, where the Life of the Natives was concerned; but that could never apply where the Life of a Britiſh Subject was concerned.

Your Committee then examined Mr Joſeph Price, who, being aſked, Whether the Unpopularity of the Court with the Company's Servants proceeded from their Opinion, that the Court was ſent to reſtrain their Oppreſſions? ſaid, He believed not, from his Soul.—Being aſked, At what Time the Proceedings of the Supreme Court became diſagreeable to the Britiſh and native Inhabitants? ſaid, He believes in a few Months after its Eſtabliſhment.—Being aſked, Whether Addreſſes were not preſented, both from the Britiſh and native Inhabitants, to the Judges of the Supreme Court, expreſſing their greateſt Satisfaction in the Inſtitution and Conduct of that Court? he ſaid, There certainly were; that his Name appears to Two of them, to that of the Grand Jury, and to that of the Free Merchants.—And being aſked, If they had at that Time tried any Number of Cauſes? he ſaid, That he never went to the Court, except he was ſummoned there, or as a Juryman, ſave once or twice—That the firſt Time that he was ſummoned as a Juryman, was on the Trial of Mar Rajah Nundcomar; that he and the reſt of the Gentlemen were pleaſed with the Conduct of the Judges, in the Refuſal of blank Subpœnas, and many other Parts of their Conduct in that Trial; but he does not know what Number of Cauſes before that Time had been tried.—Being aſked, Who had applied for the blank Subpœnas? he ſaid, Mr. Farrer, as Counſel for Nundcomar.—Being aſked, Whether he thinks that the Introduction of the Engliſh Criminal Law, which makes ſuch a Number of Offences Capital, and which are not Capital in India, or which inflicts heavier and other Penalties than thoſe inflicted by the Law of their Country, would be pleaſing to the Natives, or is neceſſary for the Security of Property, or the Maintenance of Law and good Order amongſt the People of Bengal? he ſaid, That he is very ſure that the Inhabitants of Calcutta and the Provinces have a general Averſion to the Introduction of the Engliſh Criminal Law, and that it is productive of many Evils.—Being aſked, Whether the more opulent Part of the Natives of Bengal, both Gentoos and Muſſulmans, are not a civilized People, of reaſonable good Underſtanding, general good Morals, and very converſant in Buſineſs? he informed Your Committee, They are a very ſenſible civilized People, and very converſant in all Kinds of Buſineſs; but that the Mahomedans and Hindoos are prejudiced in favour of their own Laws full as much as Engliſhmen are here.—Being aſked, If Men of Subſtance amongſt them were choſe to ſerve upon Juries at Calcutta, in Trials between Native and Native, or conjointly with Engliſhmen, where mixed Intereſts were concerned, they could be capable of performing the function of Jurymen, with proper Inſtructions? he ſaid, They certainly could be very competent to ſerve as Jurymen.—Then being aſked, Whether the great Expence of Proceſs in the Supreme Court, has not been a great Cauſe of Complaint among Britiſh Subjects and Natives? he ſaid, It had been very much complained of.—Being aſked, If he had often heard Complaints of the want of a Trial by Jury in Civil Cauſes, tried before the Supreme Court? he ſaid, He had often heard of it, and he often wiſhed, that as there were ſo few European Inhabitants in the Settlement to ſupply the Juries, that the Cuſtom of Bombay had been introduced at Calcutta, of having Six Europeans and Six Natives, to form a Jury in Civil Caſes—That he had often converſed with the principal Banyans upon the Subject, and they ſeemed to think, that if their Suits muſt be tried by Engliſh Law, they would be glad to have ſome of their own Countrymen ſit on the Deciſion, which would bring it nearer to the Mode of Deciſion in their own Courts. That the moſt intelligent Natives he ever converſed with, had not an Idea of making a Diſtinction between Law and Equity.—Being aſked his Opinion as to the Practicability of introducing Juries in Civil Caſes at Calcutta? he ſaid, It is utterly impoſſible, if the Jurors are to be all Europeans; but very practicable, if the Juries were to conſiſt of half Natives, where a Native was concerned pro or con; but all Europeans muſt ſit where the Plaintiff and Defendant are Europeans; and that ſuch a Plan would be very acceptable to both one and the other.—Being aſked, If the Europeans would be ſatisfied to have Half the Jury compoſed of Natives? he ſaid, He thought they would.—Being aſked, If he thinks, that in certain Caſes, Juſtice was obſtructed by the ancient Conſtitution of the Mayor's Court at Calcutta? he ſaid, He remembered, that the Diſlike to the Mayor's Court aroſe from the Appointment of the Aldermen being veſted in the Governor and Council, but if the whole of the European Inhabitants had been allowed to ballot for the Aldermen, as Vacancies happen, very few Appeals would have been made from their Deciſion—That he thinks the Mayor's Court was competent to all the Purpoſes of adminiſtring Juſtice in Caſes of Property, within the Bounds of the old Charter.—Being aſked, If the Objection made by the Inhabitants to the Mayor's Court, on account of its Members being appointed by the Governor and Council, was not removed by the Appointment of a Judicature immediately from the Crown? he ſaid, That Evil was removed, but a much greater was introduced.—Being aſked, Whether the Inſtitution of the Supreme Court, and the Arrival of the Judges, was not generally pleaſing to the People? he ſaid, As a mere Shew, he believes it was to the Natives; but they were not competent to judge of it, till they experienced the Effects. As to the Europeans, at Firſt they were well pleaſed to have the Laws of their Country introduced amongſt them; but when they felt the Conſequences of the unbounded Power in the Judges of the Supreme Court, by the Charter of Juſtice, they were univerſally diſguſted at it.—Being aſked, Whether the Judges of the Supreme Court, being appointed for the Purpoſe of reſtraining the Company's Servants, was not the Cauſe of this Diſcontent? he ſaid, He believed not.

Your Committee find a Letter from Sir Elijah Impey to Lord Weymouth, dated the 26th of March 1779, relative to the Petitions of the Britiſh Inhabitants of Bengal, intended to be preſented to the Supreme Council, and to the Parliament of Great Britain; and the Chief Juſtice ſtates, That the Letter abovementioned contains a full and authentic Account of the Cauſes, Riſe, and Progreſs, of theſe Petitions, as far as they have come to the Knowledge of the Judges: Your Committee have therefore annexed the Extract thereof, as laid before Your Committee, in the General Appendix, N° 31.

As alſo a Copy of a Letter from the Chief Juſtice, Sir Elijah Impey, to the Earl of Rochford, dated Calcutta, 25th of March 1775. General Appendix, N° 32.

Alſo a Copy of a Letter from Sir Elijah Impey to Mr. Haſtings, dated the 9th of January 1780; with the Governor General's Anſwer to that Letter. General Appendix, N° 33, 34.

Alſo a Copy of a Letter from Sir Elijah Impey to the Earl of Rochford, dated Calcutta, 20th January 1776. General Appendix, N° 35.

Your Committee, with a View of enabling the Houſe to form an Opinion of the Extent of the Juriſdiction, as to the Number of Perſons, thought it their Duty to lay before the Houſe (General Appendix, N° 36) a Liſt of the Rajahs, Zemindars, and Renters of the ſeveral Diſtricts, which compoſe the Provinces of Bengal, Bahar, and Oriſſa, with the Names of thoſe Diſtricts, and the Annual Amount of the Value of the Zemindarries or Farms.—This Liſt points out the Number of Men, with their Rank and Importance, in the State, who are immediately affected by that Deciſion of the Supreme Court, which extends their Juriſdiction over the Zemindars.—From the Evidence before Your Committee, we find it is uſual for the Shroffs, or Bankers, or other monied Men, to become Securities for Zemindars—But Your Committee have not been able to obtain the Names of all thoſe who are, or have been, Securities for the Payment of the Zemindarry Rents.

Your Committee have alſo added (General Appendix, N° 37) a General Statement of the Demand, Receipts, and Ballances, of the Revenue of the Provinces that compoſe the Dewannee Subah Bengal Ceded Lands, and Subah Bahar, for the Bengal Year 1185, or from the 1ſt May 1778 to 30th April 1779, or Bahar Year 1186, or from the 21ſt September 1778 to the 20th September 1779 (being the laſt Statement received from Bengal).

And that the Houſe may be enabled to form a Judgment of the Obligations and Duties which a Zemindar engages to perform, when his Sunnud, or Grant is renewed, Your Committee have annexed (in the Appendix, N° 38) Form of a Bundobuſty Sunnud, to be given to thoſe Zemindars, with whom a Settlement is made for their Zemindarries.

Form of a Muchulka, being a Counterpart of the Sunnud to be executed by thoſe Zemindars, with whom a Settlement is made for their own Zemindarries.

And Your Committee have added a Copy of the Amulnama, or Leaſe to the Farmers.

As alſo a Cabooleat or Acceptance for Farmers, where the Lands are let in Farms.

Your Committee having peruſed the Report of Mr. George Rous, Counſel to the Eaſt India Company, dated the 5th of December 1780, have thought proper to annex it to their Report. General Appendix, N° 39.

And that the Houſe may be enabled to form a comparative Judgment of the general as well as comparative Expence attending the Inſtitution of the Supreme Court of Judicature at Fort William, and the late Mayor's Court at Calcutta, Your Committee have inſerted in the Report,

An Account of the Expence of the Mayor's Court at Calcutta for Five Years, with the Average for One Year.

From 1st May 1769	to	30th April 1770	C. R^s	14,246
1770	- - -	1771	- -	9,225
1771	- - -	1772	- -	23,493
1772	- - -	1773	- -	16,347
1773	- - -	1774	- -	17,096
			C. R^s	80,407
Average Expence of One Year,		- -	C. R^s	16,081

An Account of the Expence of the Supreme Court of Judicature at Calcutta, for Five Years, with the Average for One Year.

1774	to	1775	C. R^s	3,19,867
1775	- - - -	1776	- -	3,90,701
1776	- - - -	1777	- -	3,95,872
1777	- - - -	1778	- -	5,41,030
1778	- - -	1779	- -	5,69,126
			C. R$_s$	22,16,596
Average Expence of One Year		- -	C. R^s	4,43,319

Your Committee have alſo annexed, in the General Appendix, N° 40, an Account of Charges incurred ſince the Eſtabliſhment, and in the Support and Maintenance, of the Supreme Court of Judicature in Bengal, ſigned by the Governor General and Council, and dated the 3d of March, 1780; the Total of which is, Current Rupees 34,93,160. 14. 4, or about £. 349,000.

GENERAL APPENDIX,

N° 1 and 2.

GENERAL APPENDIX,

No 1 and 2.

GENERAL APPENDIX,

Nº 1.

Letters Patent, eſtabliſhing a Supreme Court of Judicature at Fort William in Bengal, bearing Date the Twenty-ſixth Day of March, in the Fourteenth Year of the Reign of George III. Anno Domini One thouſand Seven hundred and Seventy-four.

Recital of Act 13 George III.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and ſo forth: To all to whom theſe Preſents ſhall come, Greeting. Whereas by an Act of Parliament, paſſed in the Thirteenth Year of Our Reign, reciting a Charter, bearing Date, at Weſtminſter, the Eighth Day of January, in the Twenty-ſixth Year of the Reign of Our Royal Grandfather, King George the Second, of glorious Memory, by him granted to "The United Company of Merchants of England, trading to the Eaſt Indies;" thereby, amongſt other Things, conſtituting and eſtabliſhing Courts of Civil, Criminal, and Eccleſiaſtical Juriſdiction, at the ſaid United Company's Settlements, at Madraſpatnam, Bombay, and Fort William in Bengal; and that the ſaid Charter does not ſufficiently provide for the due Adminiſtration of Juſtice, in ſuch Manner as the State and Condition of the Company's Preſidency of Fort William in Bengal, ſo long as the ſaid Company ſhall remain in the Poſſeſſion of the Territorial Acquiſitions, thereinbefore mentioned, do and muſt require: It is among other Things Enacted, That it ſhall and may be lawful for Us, by Charter or Letters Patent, under the Great Seal of Great Britain, to erect and eſtabliſh a Supreme Court of Judicature, at Fort William in Bengal aforeſaid, to conſiſt of a Chief Juſtice, and Three other Judges, being Barriſters of England or Ireland, of not leſs than Five Years ſtanding, with Power to exerciſe and perform all Civil, Criminal, Admiralty, and Eccleſiaſtical Juriſdiction, and to appoint ſuch Clerks, and other Miniſterial Officers of the Supreme Court of Judicature, at Fort William in Bengal, with ſuch reaſonable Salaries as ſhall be approved of by the Governor and Council, therein for that Purpoſe mentioned: And it was therein further Enacted, That ſo much of the ſaid Charter, granted by his ſaid late Majeſty, Our Royal Grandfather, as reſpects or relates to the Eſtabliſhment of the Mayor's Court at Calcutta aforeſaid, in Bengal, or to the Civil, Criminal, or Eccleſiaſtical Juriſdiction thereof, in the ſaid United Company's Settlement there, or the Subordinates thereto belonging, in caſe a New Charter ſhall be granted by Us, in purſuance of this Act, and ſhall be openly publiſhed at Fort William aforeſaid, from and immediately after ſuch Publication ſhall ceaſe, determine, and be utterly void, to all Intents and Purpoſes: And it was further Enacted, That during ſuch Time as the ſaid Territorial Acquiſitions ſhall remain in the Poſſeſſion of the ſaid Company, the Court of Directors of the ſaid United Company ſhall, and they are hereby required to direct, and cauſe to be paid certain and eſtabliſhed Salaries, to the ſaid Chief Juſtice, and each of the Judges of ſuch Supreme Court of Judicature, at Fort William in Bengal, as ſhall be by the ſaid New Charter eſtabliſhed; that is to ſay, to the Chief Juſtice Eight thouſand Pounds by the Year, and to each of the Judges of the ſaid Supreme Court of Judicature, at Fort William in Bengal, Six thouſand Pounds by the Year, and that ſuch Salaries ſhall be paid and payable to each and every of them reſpectively for the Time being, out of the ſaid Territorial Acquiſitions, in the Kingdoms of Bengal, Bahar, and Oriſſa; ſuch Salaries to take place and commence, in reſpect of all ſuch Perſons who ſhall be reſident in Great Britain, at the Time of their Appointment, from the Day on which ſuch Perſons ſhall embark from Great Britain, and ſuch Salaries to be in lieu of all Fees of Office, Perquiſites, Emoluments, and Advantages whatſoever, as by the ſaid Act may more plainly and largely appear.

A Court of Record to be called the Supreme Court of Judicature.

Now know ye, that We, upon full Conſideration of the Premiſes, and of Our eſpecial Grace, certain Knowledge and mere Motion, have thought fit to grant, direct, ordain, and appoint, and by theſe Preſents, We do accordingly, for Us, Our Heirs and Succeſſors, grant, direct, ordain, and appoint, that there ſhall be, within the Factory of Fort William at Calcutta, in Bengal, a Court of Record, which ſhall be called "The Supreme Court of Judicature, at Fort William, in Bengal:" And We do hereby create, direct, and conſtitute, the ſaid Supreme Court of Judicature, at Fort William in Bengal, to be a Court of Record.

To conſiſt of a Chief Juſtice and 3 Puiſne Juſtices;

their Qualification;

to be appointed by the King, under the Great Seal.

To act during Pleaſure.

And We do further will, ordain, and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall conſiſt of, and be holden by and before One principal Judge, who ſhall be, and be called, the Chief Juſtice of the Supreme Court of Judicature, at Fort William in Bengal, and Three other Judges, who ſhall be, and be called, the Puiſne Juſtices of the Supreme Court of Judicature, at Fort William in Bengal; which ſaid Chief Juſtice and Puiſne Juſtices ſhall be Barriſters in England or Ireland, of not leſs than Five Years ſtanding, to be named and appointed, from Time to Time, by Us, Our Heirs and Succeſſors, by Letters Patent, under Our and their Great Seal of Great Britain; and they ſhall all and every of them hold their ſaid Offices, ſeverally and reſpectively, during the Pleaſure of Us, Our Heirs and Succeſſors, and not otherwiſe.

To be Juſtices of the Peace, and Coroners, in Bengal, Bahar, and Oriſſa;

and to have ſuch Authority as the Juſtices of the King's Bench in England;

the Four, or the Majority, to concur.

Chief to have a caſting Voice.

And it is Our further Will and Pleaſure, that the ſaid Chief Juſtice, and the ſaid Puiſne Juſtices, ſhall ſeverally and reſpectively be, and they are all and every of them hereby appointed, to be Juſtices and Conſervators of the Peace, and Coroners, within and throughout the ſaid Provinces, Diſtricts, and Countries of Bengal, Bahar, and Oriſſa, and every Part thereof; and to have ſuch Juriſdiction, and Authority, as Our Juſtices of our Court of King's Bench have and may lawfully exerciſe, within that Part of Great Britain called England, by the common Law thereof; and We further will and ordain, that all Judgments, Rules, Orders, and Acts of Authority or Power whatſoever, to be made or done by the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall be made or done, by and with the Concurrence of the ſaid Four Judges, or ſo many, or ſuch One of them, as ſhall be on ſuch Occaſions reſpectively aſſembled, or ſitting as a Court, or of the major Part of them ſo aſſembled and ſitting: Provided always, that in caſe they ſhall be equally divided, the Chief Juſtice, or, in his Abſence, the Senior Judge preſent, ſhall have a double or caſting Voice.

To have a Seal, to be kept by the Chief Juſtice, or by the Senior Puiſne Judge.

And We do further grant, ordain, and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall have and uſe, as Occaſion may require, a Seal, bearing a Device and Impreſſion of Our Royal Arms, within an Exergue or Label ſurrounding the ſame, with this Inſcription, "The Seal of the Supreme Court:" And We do hereby grant, ordain, and appoint, that the ſaid Seal ſhall be delivered to, and kept in the Cuſtody of the ſaid Chief Juſtice; and in caſe of Vacancy of the Office of Chief Juſtice, the ſame ſhall be delivered over, and kept in the Cuſtody of ſuch Perſon, who ſhall then be Senior Puiſne Judge, during ſuch Vacancy; and We do hereby grant, ordain, and appoint, that whenſoever it ſhall happen, that the Office of Chief Juſtice, or of the Judge, to whom the Cuſtody of the ſaid Seal be committed, ſhall be vacant, the ſaid Supreme Court of Judicature at Fort William in Bengal, ſhall be, and is hereby authorized and empowered, to demand, ſeize, and take the ſaid Seal from any Perſon or Perſons whomſoever, by what Ways and Means ſoever the ſame may have come to his, her, or their Poſſeſſion.

All Writs, &c. iſſued by the Court, to be in the King's Name.

And We do hereby further grant, ordain and appoint, That all Writs, Summons, Precepts, Rules, Orders, and other Mandatory Proceſs, to be uſed, iſſued, or awarded, by the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall run, and be in the Name and Stile of Us, or of Our Heirs and Succeſſors, and ſhall be ſealed with the Seal of the ſaid Supreme Court of Judicature, at Fort William in Bengal, and ſhall have and bear the Atteſtation of the Chief Juſtice, or, in the Vacancy of the ſaid Office, of the Senior of the Three Puiſne Judges, and ſhall be ſigned by the proper Officer, whoſe Duty it ſhall be, according to the Arrangement hereinafter provided, to prepare and make out ſuch Proceſs.

Chief Juſtices and Puiſne Juſtices Salaries.

And We do further grant, ordain, appoint and declare, That the ſaid Chief Juſtice, and the ſaid Puiſne Juſtices, ſhall and may, and ſo long as they hold the ſaid Offices reſpectively, ſhall be entitled to have, and receive reſpectively, the Salaries, in and by the ſaid recited Act of Parliament, provided for that Purpoſe, that is to ſay, the Chief Juſtice Eight Thouſand Pounds by the Year, and the Three Puiſne Juſtices Six Thouſand Pounds

Their Rank.

Pounds by the Year, each of them to be paid and payable, in Manner and Form as is therein ſpecified and directed: And We do hereby give and grant, to Our ſaid Chief Juſtice, Rank and Precedence, above and before all Our Subjects whomſoever, within the Provinces of Bengal, Bahar, and Oriſſa, excepting the Governor General, for the Time being, of the Preſidency of Fort William in Bengal, and excepting all ſuch Perſons as by Law and Uſage take place in England, before our Chief Juſtice of Our Court of King's Bench: And We do hereby alſo give and grant, to each of Our ſaid Puiſne Juſtices reſpectively, according to their reſpective Priority of Nomination, Rank and Precedence, above and before all Our Subjects whomſoever, within the ſaid Provinces of Bengal, Bahar, and Oriſſa, excepting the ſaid Governor General, Our ſaid Chief Juſtice of Our ſaid Supreme Court of Judicature, at Fort William in Bengal, and all and every ſuch Member, or Members, of the Supreme Council there, as ſhall reſpectively, by Priority of Nomination, be Senior or Seniors to ſuch reſpective Puiſne Juſtice or Juſtices; and alſo excepting all ſuch Perſons as by Law and Uſage take place in England, before Our Juſtices of the Court of King's Bench.

Elijah Impey, Eſq; to be the Firſt Chief Juſtice; Robert Chambers, Stephen Cæſar Le Maiſtre, and John Hyde, Eſqrs. the Firſt Puiſne Juſtices.

And We do hereby conſtitute and appoint Elijah Impey, of Lincoln's Inn, Eſq; Firſt Chief Juſtice; Robert Chambers, of the Middle Temple, Stephen Cæſar Le Maiſtre, of the Inner Temple, John Hyde, of Lincoln's Inn, Eſqrs. to be the Firſt Puiſne Juſtices of Our ſaid Supreme Court of Judicature, at Fort William in Bengal; the ſaid Elijah Impey, Robert Chambers, Stephen Cæſar Le Maiſtre, and John Hyde, and every of them, being Barriſters in England, of Five Years ſtanding, and upwards.

Sheriff at Fort William, to continue ſuch, until Appointment of another.

Mode of ſuch in future Appointment.

Sheriff's Oath.

Proviſion in caſe of Death, &c. while in his Office.

Sheriff's Duty.

Mode of Proceeding when the Sheriff ſhall be a Party.

And We do further, for Us, Our Heirs and Succeſſors, grant, ordain and appoint, That the Perſon, who ſhall be the Sheriff at Fort William in Bengal, at the Time of the Publication of this Our Charter, in Manner hereinafter directed, ſhall be and continue the Sheriff, until another ſhall be duly appointed and ſworn into the ſaid Office: And We do further, for Us, Our Heirs and Succeſſors, grant, direct and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall, upon the Firſt Tueſday of December, in every Year, nominate Three Perſons, reſident in the Town of Calcutta, or the Precincts thereof, to the Governor General and Council, or the major Part of them, who, within Three Days after ſuch Nomination, ſhall appoint One of the ſaid Three Perſons to ſerve the Office of Sheriff, for the Year enſuing, to be computed from the Twentieth Day of December next after ſuch Appointment; which Sheriff ſhall, as ſoon as conveniently may be, and before he ſhall enter upon his ſaid Office, take an Oath, faithfully to execute his Office, and the Oath of Allegiance, before the Governor General, or, in his Abſence, the Senior Member of the Council there preſent, who are hereby reſpectively authorized to adminiſter the ſame; and ſhall continue in ſuch Office, during the Space of One Whole Year, to be computed from the ſaid Twentieth Day of December, and until another ſhall be duly appointed and ſworn into the ſaid Office; and in caſe ſuch Sheriff ſhall die in his Office, or depart from the Provinces of Bengal, Bahar, and Oriſſa, then another Perſon ſhall and may, as ſoon as conveniently may be, after the Death or Departure of ſuch Sheriff, be in like Manner nominated, appointed, and ſworn in as aforeſaid, and ſhall continue in his Office for the Remainder of the Year, or until another Sheriff ſhall be duly appointed and ſworn into the ſaid Office; and We do further order, direct and appoint, that the ſaid Sheriff, and his Succeſſors, ſhall by themſelves, or their ſufficient Deputies, to be by them appointed, and duly authorized, under their reſpective Hands and Seals, and for whom he and they ſhall be reſponſible, during his or their Continuance in ſuch Office; and he and they are hereby authorized to execute all the Writs, Summons, Rules, Orders, Warrants, Commands and Proceſs of the ſaid Supreme Court of Judicature, at Fort William in Bengal, and make Return of the ſame, together with the Execution thereof, to the ſaid Supreme Court of Judicature, at Fort William in Bengal, and to receive and detain in Priſon ſuch Perſons as ſhall be committed to him for that Purpoſe, by the ſaid Supreme Court of Judicature, at Fort William in Bengal, and by the Chief Juſtice and Juſtices reſpectively: And We further direct, ordain and appoint, that whenever the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall direct, or award any Proceſs againſt the ſaid Sheriff, or award any Proceſs, in any Cauſe, Matter or Thing, wherein the ſaid Sheriff, on Account of his being related to the Parties, or any of them, or by Reaſon of any good Cauſe of Challenge, which would be allowed againſt any Sheriff, in that Part of Great Britain, called England, cannot by Law execute the ſame, in every ſuch Caſe, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall name and appoint ſome other fit Perſon to execute and return the ſame; and the ſaid Proceſs ſhall be directed to the ſaid Perſon, ſo named for that Purpoſe; and the Cauſe of ſuch ſpecial Proceeding ſhall be ſuggeſted, and entered on the Records of the ſame.

Court to appoint Clerks and Officers, with ſuch

And we do further authorize and empower the ſaid Supreme Court of Judicature, at Fort-William in Bengal, from Time to Time, as Occaſion may require, to appoint reaſonable Salaries as ſhall be approved of by the Governor General and Council.

ſo many and ſuch Clerks, and other Miniſterial Officers, as ſhall be found neceſſary for the Adminiſtration of Juſtice, and the due Execution of all the Powers, and Authorities, which are and ſhall be granted, and committed, to the ſaid Supreme Court of Judicature, at Fort William in Bengal, by theſe our Letters Patent: And it is our further Will and Pleaſure, and We do hereby, for Us, Our Heirs and Succeſſors, give, grant, direct and appoint, that all and every the Officers and Clerks, to be appointed as aforeſaid, ſhall have and receive reſpectively ſuch reaſonable Salaries as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall appoint, for each Office and Place reſpectively, and as the Governor General and Council appointed, conſtituted, and created, by the Act of Parliament herein before mentioned, ſhall approve of: Provided always, and it is Our Will and Pleaſure, that all and every the Officers and Clerks, to be appointed as aforeſaid, ſhall be reſident within the Limits of the Juriſdiction of the ſaid Court, ſo long as they ſhall hold their reſpective Offices.

Such Officers to reſide within the Juriſdiction of the Court.

Court to approve Advocates and Attornies at Law, who are to plead and act for the Suitors; and be removable on reaſonable Cauſe.

And We do hereby further authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to approve, admit, and enrol ſuch and ſo many Advocates, and Attornies at Law, as to the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall ſeem meet, who ſhall be Attornies of Record, and ſhall be, and are hereby authorized to appear and plead, and act for the Suitors of the ſaid Supreme Court of Judicature, at Fort William in Bengal; and the ſaid Advocates and Attornies, on reaſonable Cauſe, to remove; and no other Perſon or Perſons whatſoever, but ſuch Advocates or Attornies, ſo admitted and enrolled, ſhall be allowed to appear and plead, or act in the ſaid Supreme Court of Judicature, at Fort William in Bengal, for or on the Behalf of ſuch Suitors, or any of them.

Fees to be ſettled by the Court, and approved by the Governor General and Council;

Copy thereof to be ſent to Europe, with a Liſt of Officers, Clerks, &c.

Table of Fees to be hung up in Court.

And We do hereby further authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to ſettle a Table of the Fees, to be allowed to ſuch Sheriff, and all other the Officers, Clerks, and Attornies aforeſaid, for all and every Parcel of the Buſineſs, to be done by them reſpectively; which Fees, when approved by the ſaid Governor and Council, to whom We hereby give Authority to review the ſame, the ſaid Sheriff and other Officers, Clerks and Attornies, ſhall and may lawfully demand and receive: And We do further authorize the ſaid Supreme Court of Judicature, at Fort William in Bengal, with the like Concurrence of the ſaid Governor and Council, from Time to Time, to vary the ſaid Table of Fees, as there ſhall be Occaſion: And it is Our further Will and Pleaſure, and We do hereby require and enjoin the ſaid Chief Juſtice, and the ſaid Puiſne Juſtices, and each of them reſpectively, within One Year after theſe Our Letters Patent ſhall have been publiſhed, at Fort William in Bengal aforeſaid, and within One Month from the ſaid ſettling, and Allowance of the ſaid Table of Fees, to certify, under their ſeveral Hands and Seals, and to tranſmit to Us, Our Heirs and Succeſſors, a full and true Account of the ſeveral Offices and Places, and Officers and Clerks, and of their Salaries, ſeverally and reſpectively, and a true Copy of the ſaid Table of Fees, together with the Approbation of the ſaid Governor and Council, and alſo any Variation of the ſaid Table, to be made as aforeſaid, within One Month after the ſame ſhall have been ſo varied: And We further direct, ordain and appoint, that the ſaid Table, and the ſaid Alteration and Variations thereof, if any Alteration or Variation ſhall be made, ſhall be hung up in ſome conſpicuous Part of the Hall, or Place where the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall be publickly holden.

Court's Power and Juriſdiction, in Bengal, &c. in all Treſpaſſes, againſt the Company, Mayor's Court of Calcutta, or others, in Bengal, &c. or others, who have reſided there, or who have Effects there, or are or have been in the Company's Service, or of the Mayor's Court, or of others, but not againſt ſuch who have never reſided there, or againſt ſuch who reſide in Great Britain, &c.

And We do further direct, ordain and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and ſhall have Power and Juriſdiction, and is hereby authorized to hear, examine, try and determine, in Manner hereinafter mentioned, all Actions and Suits, which ſhall or may ariſe, happen, be brought, or promoted, upon or concerning any Treſpaſſes or Injuries, of what Nature or Kind ſoever, or any Debts, Duties, Demands, Intereſts or Concerns, of what Nature or Kind ſoever, or any Rights, Titles, Claims or Demands, of, in, or to any Houſes, Lands, or other Things, real or perſonal, in the ſeveral Provinces or Diſtricts, called Bengal, Bahar, and Oriſſa, or touching the Poſſeſſion, or any Intereſt or Lien, in or upon the ſame, and all Pleas, real, perſonal or mixt, the Cauſes of which ſhall or may hereafter ariſe, accrue and grow, or ſhall have heretofore ariſen, accrued and grown, againſt The ſaid United Company of Merchants, Trading to the Eaſt-Indies, and againſt the ſaid Mayor and Aldermen of Calcutta, at Fort William in Bengal, and againſt any other of Our Subjects, who ſhall be reſident within the ſaid Provinces, Diſtricts or Countries, called Bengal, Bahar, and Oriſſa, or who ſhall have reſided there, or who ſhall have any Debts, Effects, or Eſtate, real or perſonal, within the ſame, and againſt the Executors and Adminiſtrators of ſuch Our Subjects, and againſt any other Perſon, who ſhall, at the Time of ſuch Action being brought, or at the Time when any ſuch Cauſe of Action ſhall have accrued, be or have been employed by, or be or have been, directly or indirectly, in the Service of the ſaid United Company, or of the ſaid Mayor and Aldermen, or of any other of Our Subjects: Provided always, that it ſhall not be competent to the ſaid Supreme Court of Judicature, at Fort William in Bengal, to try or determine any Suit or Action, againſt any Perſon, who ſhall never have been reſident in the Provinces of Bengal, Bahar, and Oriſſa, or any One of them, nor againſt any Perſon then reſident in Great Britain, or Ireland, unleſs ſuch Suit or Action, againſt ſuch Perſon, ſo then reſident in Great Britain, or Ireland, ſhall be commenced within Two Years after the Cauſe of Action aroſe, and the Sum to be recovered be not of greater Value than Thirty Thouſand Rupees; and the ſaid Supreme Court of Judicature, at Fort Willam in Bengal, ſhall have the like Power and Juriſdiction, and is hereby authorized to hear, examine, try and determine, all ſuch Cauſes, Actions, and Suits as aforeſaid, ariſing, growing, and to be brought or promoted againſt every other Perſon or Perſons whatſoever, Inhabitants of India, reſiding in the ſaid Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, upon any Contract or Agreement in Writing, entered into by any of the ſaid Inhabitants, with any of His Majeſty's Subjects, where the Cauſe of Action ſhall exceed the Sum of Five Hundred current Rupees, and when ſuch Inhabitants ſhall have agreed in the ſaid Contract, that, in caſe of Diſpute, the Matter ſhall be determined in the ſaid Supreme Court of Judicature, at Fort William in Bengal; and to the end that Juſtice may be adminiſtered in the ſaid Supreme Court of Judicature, at Fort-William in Bengal, with all convenient Speed and certain Effect, Our Will and Pleaſure is, and We do hereby further grant, ordain and appoint, that upon any ſuch Cauſe of Action, as aforeſaid, it ſhall be lawful and competent, for any Perſon whatſoever, by himſelf or his lawful Attorney, admitted and enrolled as aforeſaid, to prefer, to the ſaid Supreme Court of Judicature, at Fort William in Bengal, and file of Record, in the ſaid Supreme Court of Judicature, at Fort William in Bengal, a Plaint or Bill in Writing, containing the Cauſe of Action, or Complaint, whereupon the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall, and is hereby authorized to award and iſſue a Summons, or Precept in Nature of a Summons, in Writing, to be prepared in Manner above-mentioned, directed to the ſaid Sheriff, and containing a ſhort Notice of the Cauſe of Action ſet forth in the ſaid Plaint, and commanding the ſaid Sheriff to ſummon the Perſon, againſt whom the ſaid Plaint ſhall have been filed, to appear at ſome certain Time and Place, therein to be ſpecified, to anſwer the ſaid Plaint; which ſaid Precept, and the Execution thereof, the ſaid Sheriff ſhall duly return to the ſaid Supreme Court of Judicature, at Fort William in Bengal; and the Perſon or Perſons ſo ſummoned, ſhall accordingly appear, and may plead ſuch Matter in Abatement, Bar, or other Avoidance of the ſaid Plaint, or otherwiſe, as he or they ſhall be adviſed; and after ſuch Appearance, the Supreme Court of Judicature, at Fort William in Bengal, ſhall proceed, from Time to Time, giving reaſonable Days to the Parties, to hear their reſpective Allegations, as Juſtice may require, and examine the Truth thereof, upon the Oath or Oaths of ſuch competent and credible Witneſſes as they ſhall produce reſpectively; to which End, We hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, at the Requeſt of either of the ſaid Parties, to award and iſſue a Summons, or Precept in the Nature of a Summons, to be prepared in Manner before-mentioned, directed to every One of ſuch Witneſſes, commanding him or her to appear, at a Time and Place to be ſpecified in ſuch Summons, to depoſe his or her Knowledge, touching the Suit ſo depending between the Parties, naming them, and ſpecifying at whoſe Requeſt ſuch Summons ſhall have iſſued; and upon the Appearance of the ſaid Witneſſes, or any of them, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and is hereby required to order and award to them, and each of them, ſuch reaſonable Sum of Money, for his, her, or their Expences, as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall think fit, whether ſuch Witneſſes ſhall be examined or not, the ſame to be paid forthwith by the Party, at whoſe Requeſt the ſaid Summons ſhall have iſſued; and if the ſaid Sum of Money, ſo ordered and awarded, ſhall not be forthwith paid or ſecured to ſuch Witneſs, to the Satisfaction of the Supreme Court of Judicature, at Fort William in Bengal, the Party, to whom it ſhall belong to pay the ſame, ſhall not only loſe the Benefit of ſuch Witneſs's Teſtimony, but ſhall be compelled to pay him or her the Money, ſo ordered and awarded, by ſuch Ways and Proceſs as are hereinafter provided, for levying and enforcing the Payment and Satisfaction of Money, recovered by Judgments of the ſaid Court, and the ſaid Supreme Court of Judicature, at Fort William in Bengal, is hereby authorized and empowered to adminiſter, to ſuch Witneſſes and others, whom they may ſee Occaſion to examine, proper Oaths and Affirmations, that is to ſay, to ſuch Perſons as profeſs the Chriſtian Religion Oath upon the Holy Evangeliſts of God, and to Quakers Affirmations, according to the Form uſed in England for that Purpoſe; and to others, Oaths in ſuch Manner and Form as the Supreme Court of Judicature, at Fort William in Bengal, ſhall eſteem moſt binding upon their Conſciences reſpectively; and the ſaid Supreme Court of Judicature, at Fort William in Bengal, is

Court's Power to try Cauſes, &c. of Indian Inhabitants, within Bengal, &c. where the Cauſe ſhall exceed 500 Current Rupees.

Mode of Proceeding in ſuch Actions.

The Examination of Witneſſes on Oath.

To ſummon Witneſſes.

Reaſonable Expences to be allowed them.

Payment thereof compelled.

Witneſſes to be ſworn.

Quakers to affirm

Witneſſes refuſing to be ſworn, or affirm, to be puniſhed.

hereby authorized and required to reduce, or cauſe the ſaid Depoſitions to be reduced into Writing, and ſubſcribed by the ſeveral Witneſſes, with their Name or other Mark, and to file the ſame of Record; and in caſe any Perſon or Perſons, ſo ſummoned ſhall refuſe or wilfully neglect to appear, and be ſworn, or, being Quakers, to affirm, and be examined, and ſubſcribe their Depoſitions, as the Supreme Court of Judicature, at Fort William in Bengal, ſhall appoint, the Supreme Court of Judicature, at Fort William in Bengal, is hereby empowered to puniſh ſuch Perſon or Perſons, ſo refuſing or wilfully neglecting, as for a Contempt, by Fine, Impriſonment, or other corporal Puniſhment, not affecting Life or Limb.

The Court to give Judgment, on hearing the Parties, in caſe Defendant ſhould make Default after Appearance, or refuſe to make a Defence; Court to award Coſts.

And We do further give the ſaid Supreme Court of Judicature, at Fort William in Bengal, full Power and Authority, upon examining and conſidering the ſeveral Allegations of the ſaid Parties to ſuch Suit, or of the Complainant alone, in caſe the Defendant ſhould make Default after Appearance, or ſay nothing, or confeſs the Plaint, and the Depoſitions of the Witneſſes produced, ſworn and examined, in Manner above-mentioned, to give Judgment and Sentence, according to Juſtice and Right; and alſo to award and order ſuch Coſts to be paid, by either or any of the Parties, to the other or others, as they the ſaid Court ſhall think juſt.

And may iſſue Writs of Execution, for ſeizing Effects;

Debts, ſo ſeized, to be paid as the Court ſhall appoint;

Such Interlocutory Orders to be made as they ſhall ſee fit. In failure of Appearance, the Court may order the Party to be arreſted.

Sheriff may take Bail for Appearance: Proceedings thereon.

And We do further authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to award and iſſue a Writ or Writs of Execution, to be prepared in Manner before-mentioned, and directed to the ſaid Sheriff, for the Time being, commanding him to ſeize and deliver the Poſſeſſion of Houſes, Land, or other Things, recovered in and by ſuch Judgment, or to levy any Sum of Money, which ſhall be ſo recovered, or any Coſts, which ſhall be ſo awarded, as the Caſe may require, by ſeizing and ſelling ſo much of the Houſes, Lands, Debts, or other Effects, Real and Perſonal, of the Party, againſt whom ſuch Writs ſhall be awarded, as will be ſufficient to anſwer and ſatisfy the ſaid Judgment or Award; or to take and impriſon the Body of ſuch Party or Parties, until he or they ſhall make ſuch Satisfaction, or to do both as the Caſe ſhall require: And We do further order, direct, and appoint, that the ſeveral Debts, to be ſeized as aforeſaid, ſhall, from the Time the ſame ſhall be extended and returned into the ſaid Supreme Court of Judicature, at Fort William in Bengal, be paid and payable, in ſuch Manner and Form as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall appoint, and no other; and ſuch Payment, and no other, ſhall from thenceforth be an abſolute and effective Diſcharge for the ſaid Debts, and every of them reſpectively: And We do hereby further authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to make ſuch further and other Interlocutory Rules and Orders, as the Juſtice of the Proceeding may ſeem to require; and in caſe the Party, ſo ſummoned as aforeſaid, ſhall not appear upon the Return of ſuch Summons, or Precept as aforeſaid, according to the Exigence thereof, We do further authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to award and iſſue a Writ or Warrant, to be prepared in Manner above-mentioned, and directed to the ſaid Sheriff, commanding him to arreſt and ſeize the Body of ſuch Perſon, ſo making Default, and to have his ſaid Body, at ſuch Time and Place as ſhall be ſpecified in the ſaid Writ for that Purpoſe, before the ſaid Supreme Court of Judicature, at Fort William in Bengal, to anſwer the ſaid Plaint; and the ſaid Supreme Court of Judicature, at Fort William in Bengal, may, if it ſhould be thought proper, by the ſaid Writ, authorize the ſaid Sheriff to take ſuch Bail, for the Appearance of the ſaid Defendant, as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall think fit to direct; and upon ſuch Appearance, the ſaid Defendant may plead, in ſuch Manner as if he had appeared upon the Return of the Summons; and if the Cauſe of Action, contained in ſuch Plaint, ſhall be perſonal, and of more Value than One Hundred current Rupees, and the Plaintiff, by Affidavit, or, being a Quaker, by Affirmation in Writing, to be filed of Record, ſhall ſatisfy the ſaid Supreme Court of Judicature, at Fort William in Bengal, that the Defendant is juſtly and truly indebted to him, in a greater Sum than One Hundred current Rupees, or if he ſhall, by like Affidavit, or Affirmation, to be filed as aforeſaid, verify, to the Satisfation of the ſaid Supreme Court of Judicature, at Fort William in Bengal, a Caſe of ſuch enormous perſonal Wrong as in the Judgment of the ſaid Supreme Court of Judicature, at Fort William in Bengal, requires ſuch Security, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall, and is hereby authorized and empowered to award and iſſue, in lieu of the Summons aforeſaid, a Writ or Warrant, to be prepared in Manner above-mentioned, and directed to the ſaid Sheriff, commanding him to arreſt and ſeize the Body of ſuch Defendant, and to have his ſaid Body, at a Time and Place, in the ſaid Writ to be ſpecified, before the ſaid Court, to anſwer the ſaid Plaint, and to give ſufficient Security, to be approved of by the ſaid Supreme Court of Judicature, at Fort William in Bengal, that he will ſtand to, and perform the Judgment of the ſaid Supreme Court of Judicature,

ture, at Fort William in Bengal, upon the Premiſes, and pay all ſuch Sum or Sums of Money as ſhall thereby be awarded; and the ſaid Supreme Court of Judicature, at Fort William in Bengal, may, in and by the ſaid Writ or Warrant, authorize the ſaid Sheriff to deliver the Body of ſuch Defendant, ſo arreſted, to ſufficient Bail, upon their ſufficient Recognizance and Security given, that ſuch Defendant ſhall appear, at a Time and Place mentioned in ſuch Writ or Warrant, and in all Things perform and fulfil the Exigence thereof; and upon the Appearance of ſuch Defendant, in and before the ſaid Supreme Court of Judicature, at Fort William in Bengal, We do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to commit him to Priſon, to the ſaid Sheriff, unleſs or until he ſhall give Security, to the Satisfaction of the ſaid Supreme Court of Judicature, at Fort William in Bengal, to perform the Judgment thereof, and pay all ſuch Sum or Sums of Money as ſhall be awared thereby; which Security, We hereby empower the ſaid Court to take, and thereupon to deliver the Body of the ſaid Defendant upon Bail; and if the ſaid Sheriff ſhall return to either of the ſaid Writs of Summons, or Capias, that the Defendant is not to be found within the Juriſdiction of the ſaid Supreme Court of Judicature, at Fort William in Bengal, and the Plaintiff ſhall, by Affidavit, or, being a Quaker, by Affirmation in Writing, or otherwiſe, to the Satisfaction of the ſaid Supreme Court of Judicature, at Fort William in Bengal, make Proof, verifying his Demand, We do hereby grant, ordain, and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall and may award and iſſue a Writ of Sequeſtration, to be prepared in Manner above-mentioned, and directed to the ſaid Sheriff, commanding him to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts of ſuch Defendant, to ſuch Value as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall think reaſonable and adequate to the ſaid Cauſe of Action, ſo verified as aforeſaid, and the ſame to detain till ſuch Defendant ſhall appear, and abide ſuch Order of the ſaid Supreme Court of Judicature, at Fort William in Bengal, as if he had appeared on the former Proceſs; and the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall, and is hereby authorized and empowered, according to their Diſcretion, either to cauſe the ſaid Goods to be detained in Specie, or to be ſold, and to give Day to ſuch Defendant, by Proclamation in open Court, from Time to Time, not exceeding Two Years in the whole; and if ſuch Defendant ſhall not appear on the laſt Day, which the ſaid Court in their Diſcretion ſhall think proper to give, it ſhall be lawful, and the ſaid Supreme Court of Judicature, at Fort William in Bengal, is hereby authorized to proceed, ex parte, to hear, examine, and determine the ſaid Plaint and Cauſe, and give ſuch Judgment therein, and award and order ſuch Coſts as aforeſaid; and if Judgment ſhall in ſuch Caſe paſs for the Plaintiff, the ſaid Supreme Court of Judicature, at Fort William in Bengal, is hereby authorized and empowered to award and iſſue a Writ to the ſaid Sheriff, to be prepared in Manner above-mentioned, commanding him to ſell the ſaid Houſes, Lands, Goods, Effects, and Debts, ſo ſeized and ſequeſtered, and to make Satisfaction, out of the Produce thereof, to the Plaintiff, for the Duty ſo recovered, and his Coſts, and to return the Overplus, if any there be, after ſatisfying the ſaid Judgment and Coſts, and the Expences of the ſaid Sequeſtration, to ſuch Perſon, in whoſe Poſſeſſion the ſaid Effects were ſeized, or otherwiſe to reſerve them for the ſaid Defendant, as Occaſion ſhall require; and if ſuch Effects ſhall not be ſufficient to produce the Sum ſo to be recovered, and the ſaid Coſts, the ſaid Supreme Court of Judicature, at Fort William in Bengal, is further empowered to award and iſſue ſuch Proceſs of Execution, for the Deficiency, as is heretofore provided, for levying Money recovered by Judgment and Coſts; and if Judgment ſhall, in ſuch laſt-mentioned Caſe, paſs for the Defendant, the ſaid Supreme Court of Judicature, at Fort William in Bengal, is authorized and empowered to award and order the Coſts of the ſaid Suit, and the Expence of the ſaid Sequeſtration, and all the Damages occaſioned thereby, to be paid by the ſaid Plaintiff to the ſaid Defendant, or his Attorney, or the Perſon in whoſe Poſſeſſion the ſaid Effects were ſeized, and the ſame ſhall be levied by ſuch Proceſs, as is herein provided for levying Coſts; and the ſaid Debts, from the Time of their being ſo ſeized and extended, and returned into Court, ſhall be payable, in ſuch Manner as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall direct, and no other.

Recital of former Proceedings, either where the Company are Plaintiffs or Defendants.

And whereas, in and by the ſaid Charter, made and granted by Our ſaid Royal Grandfather, King George the Second, on the Eighth Day of January, in the Twenty-ſixth Year of His Reign, it is among other Things provided, that in caſe of Actions or Suits againſt the ſaid United Company, it ſhould be lawful, for the Court thereby eſtabliſhed, to iſſue their Summons to the Governor or Preſident and Council, at Fort William in Bengal, to appear for the ſaid United Company, with further Power to iſſue ſuch Proceſs againſt the ſaid Company, and their Eſtate and Effects, as ſhould be neceſſary to compel the Appearance of the ſaid Company, and to raiſe and levy upon their Goods, Eſtate, or Effects, the Debt or Damages, together with ſuch Coſts of Suit

as

Company to appoint an Attorney to act on their Behalf.

Form of Proceedings.

And if the Company refuſe to appoint an Attorney, the Court may appoint one. Form of Proceedings.

as ſhould be awarded by the ſaid Court; and that in caſe of any Action or Suit, to be brought by the ſaid Company, againſt any other Perſon, it ſhould be lawful for the ſaid Governor, or Preſident and Council, to appear and act for the ſaid Company; and in caſe of Judgment given againſt the ſaid Company, and Coſts awarded, the ſame ſhould be levied by the ſaid Court, upon the Goods and Effects of the ſaid Company, as by the ſaid Charter may more fully appear: Now We meaning alſo to extend the Powers and Authorities, hereby given and granted for the due Adminiſtration of Juſtice, in the moſt beneficial Manner, to all Our loving Subjects in the ſaid Provinces, Diſtricts, or Countries, of Bengal, Bahar, and Oriſſa, do grant, ordain, and appoint, that the ſaid Governor and Council, or their Succeſſors, ſhall and may, from Time to Time, by their ſufficient Warrant, to be filed of Record, name and appoint ſome ſufficient Perſon, reſident in the ſaid Town of Calcutta, to be the Attorney of the ſaid United Company, who ſhall remain and act as Attorney to the ſaid United Company, ſo long as he ſhall reſide in Calcutta, or until ſome other fit Perſon, there reſident, ſhall be appointed in his Place, in Manner above-mentioned; and if any ſuch Plaint as aforeſaid ſhall be filed in the ſaid Supreme Court of Judicature, at Fort William in Bengal, againſt the ſaid United Company, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and is hereby empowered to award and iſſue ſuch Summons, or Precept as aforeſaid, directed to the ſaid Sheriff, commanding him to ſummons the ſaid United Company, by their ſaid Attorney, to appear at a Time and Place therein to be ſpecified, to anſwer the ſaid Plaint, and the ſaid Sheriff ſhall ſerve the ſame upon the ſaid Attorney, and the ſaid Attorney ſhall thereupon appear for the ſaid Company; and if the ſaid United Company ſhall not appear in Manner aforeſaid, upon the Return of the ſaid Writ, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and is hereby authorized, upon ſuch Default, to award and iſſue a Writ, to be prepared in Manner before-mentioned, and directed to the ſaid Sheriff, commanding him to ſeize and ſequeſter ſuch, and ſo much of the Eſtate and Effects of the ſaid Company, as upon the Circumſtances, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall think fit, to compel the Appearance of the ſaid Company, at the Time and Place, which ſhall be ſpecified for that Purpoſe in ſuch Writ of Sequeſtration; and for Default of Appearance, upon the Return of ſuch laſt-mentioned Writ, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and is hereby empowered to iſſue other ſuch Writ or Writs of Sequeſtration, from Time to Time, till the ſaid Company ſhall duly appear; and after ſuch Appearance, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall and may proceed to hear, examine, try, and determine the ſaid Action and Suits, in Manner before-mentioned; and if Judgment ſhall be given in ſuch Action or Suit, againſt the ſaid Company, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and and is hereby empowered to award and order reaſonable Coſts to be paid by the ſaid Company, and to cauſe the Debt, or Damages and Coſts, ſo awarded, to be raiſed and levied of the Eſtates, Goods, and Chattels, of the ſaid Company, in ſuch Manner as is herein before provided, for Execution to be had in other Action and Suits; and if the ſaid Governor and Council ſhall refuſe or neglect, at any Time, to make ſuch Attorney, the ſaid Supreme Court of Judicature, at Fort William in Bengal, are hereby empowered and authorized to name an Attorney for the ſaid United Company, againſt whom Proceſs ſhall in like Manner be awarded; and the ſaid United Company may alſo ſue in the ſaid Supreme Court of Judicature, at Fort William in Bengal, in the ſame Manner, and to the ſame Effect, as other Perſons herein before-mentioned; and if Judgment ſhould be given againſt the ſaid United Company, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may order reaſonable Coſts to be paid by them to the Defendant, and to be raiſed and levied of their Lands, Houſes, Debts, Eſtates, Goods and Chattels, in ſuch Manner as is herein provided, for Execution of Judgements on other Occaſions; and if the ſaid United Company, after Four Sequeſtrations, and after the Expiration of Two Years, from the Service of the Summons above-mentioned, ſhall not appear, then the ſaid Supreme Court of Judicature, at Fort William in Bengal, may and is hereby required, if the Plaintiff ſhall, by Affidavit, or, being a Quaker, by Affirmation in Writing, or otherwiſe, to the Satisfaction of the ſaid Supreme Court of Judicature at Fort William in Bengal, make Proof, verifying his Demand, to proceed, hear, examine, try and determine the ſaid Plaint and Cauſe, and to give ſuch Judgment therein, and award ſuch Coſts as aforeſaid; and in caſe the ſaid Judgment ſhall paſs for the Plaintiff, the ſaid Supreme Court of Judicature, at Fort William in Bengal, is hereby authorized and empowered to award and iſſue a Writ to the ſaid Sheriff, to be prepared in Manner before-mentioned, commanding him to ſell the Goods and Effects, ſo ſeized and ſequeſtered, and to make Satisfaction out of the Produce thereof, to the Plaintiff, for the Duty ſo recovered, and his Coſts, and to return the Overplus, if any there be, after ſatisfying the ſaid Judgment and Coſts, and the Expences of the ſaid Sequeſtration, to ſuch Perſon in whoſe Poſſeſſion the ſaid Effects were ſo ſeized, to and for the Uſe of the ſaid United Company; and if ſuch Effects are not ſufficient to produce the Sum, ſo to be recovered, and the ſaid Coſts, the ſaid Supreme Court of Judicature, at Fort William in Bengal, is further empowered to [illegible] Proceſs of Execution for the Deficiency, as is [illegible] provided [illegible] recovered by Judgment [illegible], and all Judgments [illegible] in [illegible] United Company [illegible] the ſaid Supreme Court of Judicature, at [illegible] of [illegible] of the ſaid [illegible] and all the Damages, Coſts [illegible] to be paid by [illegible] and for the [illegible] United Company, and the ſame ſhall be levied by ſuch Proceſs as is herein before provided for levying Coſts.

Diſputes between Indian Natives and Britiſh Subjects, may, by Agreement, be determined in the Supreme Court; and Cauſes of Action, exceeding 500 current Rupees, and Suits brought in other Courts, either Party may appeal to the Supreme Court, which is to cauſe Proceedings in other Courts to ſurceaſe, and Supreme Court to determine thereupon.

And whereas Contracts, or Agreements in Writing may be entered into by ſome of the [illegible] of India, reſiding in the ſaid Provinces or Diſtricts of Bengal, Bahar, and Oriſſa, [illegible] or ſome Part thereof, with Our Britiſh Subjects, or ſome of them, wherein ſuch Inhabitant or Inhabitants ſhall agree, that, in Caſe of Diſpute, the Matter ſhould be heard and determined in the ſaid Supreme Court of Judicature, at Fort William in Bengal, and whereupon Cauſes, or Cauſes of Action may ariſe, exceeding in Value reſpectively the Sum of Five Hundred current Rupees, and Suits may be brought thereupon in ſome of the Courts of Juſtice already eſtabliſhed in the ſaid Provinces or Diſtricts, We do hereby further grant, ordain, eſtabliſh and appoint, that in ſuch Caſes, it ſhall be lawful for either Party, before or after Sentence or Judgment pronounced thereon, by his, her, or their humble Petition, ſuggeſting ſuch Agreement in Writing as aforeſaid, and verifying the ſame upon Oath, to appeal to the ſaid Court of Judicature at Fort William in Bengal, and upon ſuch Petition preferred, and filed of Record, in the ſaid Supreme Court of Judicature, at Fort William in Bengal, the ſaid Supreme Court of Judicature, at Fort William in Bengal, may, and is hereby authorized to award and iſſue a Writ, or Precept, to be prepared in Manner and Form above mentioned, directed to the other Party or Parties, commanding him, her, or them, immediately to ſurceaſe proceeding further in ſuch Suit, or Suits, and thereupon ſuch Supreme Court ſhall determine thereupon, according to Right and Juſtice, in like Manner as if no Proceedings had been in ſuch other Court of Juſtice.

Supreme Court to be a Court of Equity, as the Court of Chancery in Great Britain, and to compel Appearance, &c. accordingly.

And it is Our further Will and Pleaſure, and We do hereby, for Us, Our Heirs and Succeſſors, grant, ordain, and eſtabliſh, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhould alſo be a Court of Equity, and ſhall and may have full Power and Authority to adminiſter Juſtice in a ſummary Manner, as nearly as may, according to the Rules and Proceedings of Our High Court of Chancery, in Great Britain, and upon a Bill filed, to iſſue Subpœnas, and other Proceſs, under the Seal of the ſaid Supreme Court of Judicature, at Fort William in Bengal, to compel the Appearance, and Anſwer upon Oath of the Parties therein complained againſt, and Obedience to the Decrees and Orders of the ſaid Court of Equity, in ſuch Manner and Form, and to ſuch Effect, as Our High Chancellor of Great Britain doth, or lawfully may, under Our Great Seal of Great Britain.

Supreme Court to be a Court of Oyer and Terminer, and Gaol Delivery.

And it is Our further Will and Pleaſure, and We do hereby grant, ordain and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall alſo be a Court of Oyer and Terminer, and Gaol Delivery, in and for the Town of Calcutta, and Factory of Fort William in Bengal aforeſaid, and the Limits thereof, and the Factories ſubordinate thereunto, and ſhall have the like Power, and Authority, as Commiſſioners or Juſtices of Oyer and Terminer, and Gaol Delivery, have or may exerciſe, in that Part of Great Britain, called England, to enquire, by the Oaths of good and ſufficient Men, of all Treaſons, Murders, and other Felonies, Forgeries, Perjuries, Treſpaſſes, and other Crimes, and Miſdemeanors heretofore had, done, or committed, or which ſhall hereafter be had, done or committed, within the ſaid Town or Factory, and the Limits aforeſaid, and the Factories ſubordinate thereto; and for that Purpoſe to iſſue their Warrant, or Precept, to be prepared in Manner above mentioned, and directed to the ſaid Sheriff, commanding him to ſummon a convenient Number, therein to be ſpecified, of the principal Inhabitants, reſident in the ſaid Town of Calcutta, being Subjects of Great Britain, of Us, Our Heirs and Succeſſors, to attend and ſerve, at a Time and Place therein alſo to be ſpecified, as a Grand Jury or Inqueſt, for Us, Our Heirs and Succeſſors, and preſent to the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſuch Crimes as ſhall come to their Knowledge, and the ſaid Crimes and Offences to hear and determine, by the Oaths of other good and ſufficient Men, being Subjects of Great Britain, of Us, Our Heirs or Succeſſors, and reſident in the ſaid Town of Calcutta, and for that Purpoſe to iſſue a Summons, or Precept, prepared in ſuch Manner as is before mentioned, and directed to the ſaid Sheriff, commanding him to ſummon a convenient Number, to be therein ſpecified, of ſuch Britiſh Subjects as aforeſaid, to be and appear, at a Time and Place therein to be ſpecified, and to try the ſaid Indictment or Inqueſt; and if any ſuch Grand or Petit Jury, ſo ſummoned as aforeſaid, ſhall refuſe or neglect to attend, according to ſuch Summons, and be ſworn

Sheriff to ſummon Grand Juries.

Sheriffs to ſummon Petit Juries.

Puniſhment for Non-Attendance of Juries.

upon

Power to cauſe Witneſſes to be ſummoned and ſworn.

upon Inqueſt, We do hereby further empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to puniſh the ſaid Contempt, by Fine or Impriſonment, or both: And We do further empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, in like Manner, and under the like Penalties, to cauſe all ſuch Witneſſes as Juſtice ſhall require to be ſummoned, and to adminiſter to them, and each of them, the proper Oaths, that is to ſay, an Oath upon the Holy Evangeliſts of God, to ſuch as profeſs the Chriſtian Religion; and to others, ſuch Oaths, and in ſuch Manner, as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall eſteem to be moſt binding upon their Conſciences; and to proceed to hear, examine, try, and determine, the ſaid Indictments and Offences, and to give Judgment thereupon, and award Execution thereof; and in all Reſpects to adminiſter Criminal Juſtice, in ſuch or the like Manner and Form, or as nearly as the Condition and Circumſtances of the Place and the Perſons will admit of, as Our Courts of Oyer and Terminer, and Gaol Delivery, do or may, in that Part of Great Britain called England: And We do further authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, in like Manner, to enquire, hear, and determine, and to award Judgment and Execution of, upon and againſt all Treaſons, Murders, Felonies, Forgeries, Perjuries, Treſpaſſes, Crimes, Miſdemeanors, and Oppreſſions, had, done, or committed, or which ſhall hereafter be had, done, or committed, in the Diſtricts, Provinces, or Countries, called Bengal, Bahar, and Oriſſa, by any of the Subjects of Us, Our Heirs, or Succeſſors, or any other Perſon or Perſons, who ſhall, at the Time of committing the ſame, have been employed by, or ſhall have been, directly or indirectly, in the Service of the ſaid United Company, or of any of the Subjects of Us, Our Heirs or Succeſſors; and for that Purpoſe to award and iſſue a Writ or Writs, to the ſaid Sheriff, prepared in Manner beforementioned, commanding him to arreſt and ſeize the Body or Bodies of ſuch Offenders, and bring him or them to Fort William aforeſaid, and him or them to keep, until he or they ſhall be delivered, by due Courſe of Law, and to do all other Acts, which ſhall be neceſſary for the due Adminiſtration of Criminal Juſtice, in ſuch Manner and Form, or as nearly as the Circumſtances and Condition of the Caſe will admit of, as Our Courts of Oyer and Terminer, and Gaol Delivery, may do, in that Part of Great Britain called England: And We do further ordain and eſtabliſh, that in ſuch Caſe, it ſhall not be lawful, for ſuch Offender, to object to the Locality of the Juriſdiction of the Court, or the Grand or Petit Jury; but he ſhall be indicted, arraigned, tried, convicted, and puniſhed, or acquitted and demeaned, in all Reſpects, as if the Crime had been committed within the ſaid Town of Calcutta, or Factory of Fort William, or the Limits thereof.

Criminal Juſtice to be adminiſtered, as in the Courts of Oyer and Terminer, in Great Britain.

Unlawful for Offenders to object to Locality of the Court's Juriſdiction, or to the Juries. Offenders to be tried, &c. as if their Crimes had been committed in Calcutta.

Supreme Court may reprieve or ſuſpend Execution of Sentence, until the King's Pleaſure is known, to whom a State of the Caſe, &c. is to be ſent; in the mean Time the Offenders may be detained, or delivered on Bail.

And Whereas Caſes may ariſe, wherein it may be proper to remit the general Severity of the Law, We do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to reprieve and ſuſpend the Execution of any Capital Sentence, wherein there ſhall appear, in their Judgment, a proper Occaſion for Mercy, until Our Pleaſure ſhall be known, and they ſhall in ſuch Caſe tranſmit to Us, under the Seal of the Supreme Court of Judicature, at Fort William in Bengal, a State of the ſaid Caſe, and of the Evidence, and of their Reaſons for recommending the Criminal to Our Mercy; and in the mean Time, they ſhall cauſe ſuch Offender to be kept in ſtrict Cuſtody, or deliver him or her out to ſufficient Mainpriſe or Bail, as the Circumſtances ſhall ſeem to require.

Court of Requeſts, and Quarter Seſſions, eſtabliſhed by the late Charter, and Juſtices, Sheriffs, and other Magiſtrates, to be ſubject to the Order and Controul of the Supreme Court, as the lower Courts of Great Britain are to the Court of King's Bench; and may iſſue Writs of Mandamus certiorari, &c. and puniſh Contempt by Fine and Impriſonment.

And to the End, that the ſaid Court of Requeſts, and the ſaid Court of Quarter Seſſions, erected and eſtabliſhed at Fort William in Bengal, by the ſaid Charter of Our ſaid Royal Grandfather, made in the Twenty-ſixth Year of his Reign, and the Juſtices, Sheriffs, and other Magiſtrates, thereby appointed for the ſaid Diſtricts, may better anſwer the Ends of their reſpective Inſtitutions, and act more conformably to Law and Juſtice; it is Our further Will and Pleaſure, and We do hereby further grant, ordain, and eſtabliſh, that all and every the ſaid Courts and Magiſtrates ſhall be ſubject to the Order and Controul of the ſaid Supreme Court of Judicature at Fort William in Bengal, in ſuch Sort, Manner, and Form, as the inferior Courts and Magiſtrates of, and in that Part of Great Britain called England, are by Law, ſubject to the Order and Controul of Our Court of King's Bench; to which End, the ſaid Supreme Court of Judicature, at Fort William in Bengal, is hereby empowered and authorized to award and iſſue a Writ or Writs of Mandamus certiorari procedendo, or Error, to be prepared in Manner abovementioned, and directed to ſuch Courts or Magiſtrates, as the Caſe may require, and to puniſh any Contempt of a wilful Diſobedience thereunto, by Fine and Impriſonment.

Supreme Court to exerciſe Eccleſiaſtical Juriſdiction, in Bengal, Bahar, and Oriſſa, on British Subjects, as is exerciſed in the Dioceſe of London.

And it is Our further Will and Pleaſure, and We do hereby grant, ordain, eſtabliſh, and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall be a Court of Eccleſiaſtical Juriſdiction, and ſhall have full Power and Authority, to adminiſter and execute, within and throughout the ſaid Provinces, Diſtricts, or Countries, called Bengal, Bahar, and Oriſſa, and towards and upon our British Subjects there reſiding, the Eccleſiaſtical Law, as the ſame is now uſed and exerciſed in the Dioceſe of London in Great Britain, ſo far as the Circumſtances and Occaſions of the ſaid Provinces and People ſhall admit or require: And to that Purpoſe, We give and grant to the ſaid Supreme Court of Judicature, at Fort William in Bengal, full Power and Authority to take Cognizance of, and proceed in all Cauſes, Suits, and Buſineſs, belonging and appertaining to the Eccleſiaſtical Court, before the ſaid Supreme Court of Judicature, at Fort William in Bengal, in whatſoever Manner to be moved, as well at the Inſtance or Promotion of Parties as of Office, mere or mixed, againſt any of Our Britiſh Subjects, reſiding at the ſaid Provinces, Countries, or Diſtricts, and which, by the Law and Cuſtom of the ſaid Dioceſe of London, are of Eccleſiaſtical Cognizance; and the ſaid Cauſes, Suits, and Buſineſs, with their Incidents, Emergents, and Dependents, and whatſoever is thereto annexed and therewith connected; to hear, diſpatch, diſcuſs, determine; and alſo to grant Probates, under ſame Seal of the ſaid Supreme Court of Judicature, at Fort William in Bengal, of the laſt Wills and Teſtaments of all or any of the ſaid Britiſh Subjects, of Us, Our Heirs, and Succeſſors, dying within the ſaid Three Provinces, Countries, or Diſtricts of Bengal, Bahar, and Oriſſa; and to commit Letters of Adminiſtration, under ſome Seal, of the Goods, Chattels, Credits, and all other Effects whatſoever, of ſuch Britiſh Subjects as aforeſaid, who ſhall die inteſtate, within the ſaid Three Provinces, Countries, or Diſtricts, or who ſhall not have named an Executor, reſident in ſuch Diſtricts, or where the Executor, being duly cited, according to the Form now uſed for that Purpoſe, in the ſaid Dioceſe of London, ſhall not appear, and ſue forth ſuch Probate, annexing the Will to the ſaid Letters of Adminiſtration, where ſuch Perſon ſhall have left a Will, without naming any Executor, or any Perſon for Executor, who ſhall then be alive, and reſident within the ſaid Three Provinces, Countries, or Diſtricts, and who, being duly cited thereunto, will appear, and ſue forth a Probate thereof; and to ſequeſter the Goods, Chattels, Credits, and other Effects whatſoever, of ſuch Perſons ſo dying, in Caſes allowed by Law, as the ſame is, and may now be uſed in the ſaid Dioceſe of London; and to demand, require, take, hear, examine, and allow, and if Occaſion require, to diſallow and reject the Account of them, in ſuch Manner and Form as is now uſed or may be uſed, in the ſaid Dioceſe of London, and to do all other Things whatſoever, needful and neceſſary in that Behalf: Provided always, and We do hereby authorize and require the ſaid Supreme Court of Judicature, at Fort William in Bengal, in ſuch Caſes as aforeſaid, where Letters of Adminiſtration ſhall be committed, with the Will annexed, for want of an Executor appearing in due Time to ſue forth the Probate, to reſerve in ſuch Letters of Adminiſtration full Power and Authority to revoke the ſame, and to grant Probate of the ſaid Will, to ſuch Executor, whenever he ſhall duly appear, and ſue forth the ſame: And we do hereby further authorize and require the ſaid Supreme Court of Judicature, at Fort William in Bengal, to grant and commit ſuch Letters of Adminiſtration, according to the Courſe now uſed, or which lawfully may be uſed, in the ſaid Dioceſe of London, to the lawful next of Kin of ſuch Perſon ſo dying as aforeſaid; and in caſe no ſuch Perſon then be reſiding within the Juriſdiction of the ſaid Supreme Court of Judicature, at Fort William in Bengal, or, being duly cited, ſhall not appear, and pray the ſame, to the principal Creditor of ſuch Perſon, or ſuch other Creditor as ſhall be willing or deſirous, to obtain the ſame; and for want of any Creditor appearing, then to ſuch other Perſon or Perſons, who ſhall be thought proper by the ſaid Supreme Court of Judicature, at Fort William in Bengal.

Power to proceed in all Cauſes, Suits, &c. againſt Britiſh Subjects of Eccleſiaſtical Cognizance.

To grant Probates of laſt Wills of Britiſh Subjects, dying within Bengal, Bahar, and Oriſſa.

To commit Letters of Adminiſtration of Inteſtates.

Form of Proceedings therein as in the Dioceſe of London.

To ſequeſter Eſtates of deceaſed Perſons.

To allow and reject Accounts.

Proviſo.

If an Executor appears after Letters of Adminiſtration are granted.

To whom Letters of Adminiſtration are to be granted.

And We do hereby further enjoin and require, that every Perſon, to whom ſuch Letters of Adminiſtration ſhall be committed, ſhall, before the granting thereof, give ſufficient Security, by Bond, to the Junior Juſtice of the ſaid Supreme Court of Judicature, at Fort William, in Bengal, for the Payment of a competent Sum of Money, with Two or more able Sureties, Reſpect being had in the Sum therein to be contained, and in the Ability of the Sureties, to the Value of the Eſtate, Credits and Effects of the deceaſed; which Bond ſhall be depoſited in the ſaid Supreme Court of Judicature, at Fort William in Bengal, among the Records thereof, and there ſafely kept, and a Copy thereof ſhall alſo be recorded among the Proceedings of the ſaid Supreme Court of Judicature, at Fort William in Bengal; and the Condition of the ſaid Bond ſhall be to the following Effect, "That if the above-bounden Adminiſtrator of the Goods, Chattels and Effects of the deceaſed, do make, or cauſe to be made, a true and perfect Inventory of all and ſingular the Goods, Credits and Effects of the ſaid deceaſed, which have or ſhall come to the Hands, Poſſeſſion or Knowledge of him the ſaid Adminiſtrator, or the Hands or Poſſeſſion of any other Perſon or Perſons for him, and the ſame, ſo made, do exhibit, or cauſe to be exhibited, into the Supreme Court of Judicature, at Fort William in Bengal, at or before a Day therein to be ſpecified, and the ſame Goods, Chattels, Credits, and Effects, and all other the Goods, Chattels, Credits and Effects of the ſaid Deceaſed, at the Time of his Death, or which, at any Time afterwards, ſhall come to the Hands or Poſſeſſion, or to the Hands and Poſſeſſion of any other Perſon or Perſons for him, ſhall well and truly adminiſter, according to Law, and further ſhall make, or

Adminiſtrators to give Security to the Junior Juſtice, to the Value of the Eſtate.

How Bond to be kept and recorded.

Form of the Condition of the Bond.

" cauſe to be made, a true and juſt Account of his ſaid Adminiſtration, at or before a " Time therein to be ſpecified, and all the Reſt and Reſidue of the ſaid Goods, Chat" tels, Credits and Effects, which ſhall be found remaining upon the ſaid Adminiſtration " Account, the ſame being firſt examined and allowed of, by the ſaid Supreme Court of " Judicature, at Fort William in Bengal, ſhall deliver and pay unto ſuch Perſon or Per" ſons reſpectively as ſhall be lawfully entitled to ſuch Reſidue; then this Obligation to " be void, and of none Effect, or elſe to remain in full Force and Virtue." And in caſe it ſhall be neceſſary to put the ſaid Bond in Suit, for the Sake of obtaining the Benefit thereof, for the Benefit of ſuch Perſon or Perſons as ſhall appear to the ſaid Supreme Court of Judicature, at Fort William in Bengal, to be principally intereſted therein, ſuch Perſon and Perſons, from Time to Time, paying all ſuch Coſts as ſhall ariſe from the ſaid Suit, or any Part thereof, ſuch Perſon or Perſons ſhall, by Order of the ſaid Supreme Court, be allowed to ſue the ſame, in the Name of the ſaid Obligee, and the ſaid Bond ſhall not be ſued in any other Manner: And We do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to order that the ſaid Bond ſhall be put in Suit, in the Name of the ſaid Junior Judge, or of his Executor, whom We alſo authorize the ſaid Supreme Court of Judicature, at Fort William in Bengal, to name and appoint for that ſpecial Purpoſe.

Directions, if it ſhall be neceſſary, to put the ſaid Bond in Suit.

Court to appoint Regiſters, Proctors, &c.

And We do hereby authorize the ſaid Supreme Court of Judicature, at Fort William in Bengal, to conſtitute and appoint ſuch, and ſo many Regiſters, Proctors, Apparitors, and other Officers, as from Time to Time there ſhall be Occaſion for, and to do and perform all other Matters and Things, needful and neceſſary, in or concerning the Premiſes, although, by their own Nature, they may require a more ſpecial Warrant, or Mandate.

Court to appoint Guardians of Infants, and of Inſane, &c. Perſons, and of their Eſtates.

And we do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to appoint Guardians and Keepers for Infants, and their Eſtates, according to the Order and Courſe obſerved in that Part of Great Britain, called England, and alſo Guardians and Keepers of the Perſons and Eſtates of natural Fools, and of ſuch as are or ſhall be deprived of their Underſtanding or Reaſon, by the Act of God, ſo as to be unable to govern themſelves and their Eſtates, which We hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to enquire, hear and determine, by Inſpection of the Perſon, or by ſuch other Ways and Means, by which the Truth may beſt be diſcovered and known.

Supreme Court to be a Court of Admiralty:

Their Power, and in what Cauſes to proceed.

And it is Our further Will and Pleaſure, and We do hereby grant, ordain, eſtabliſh, and appoint, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall be a Court of Admiralty, in and for the ſaid Provinces, Countries, or Diſtricts, of Bengal, Bahar, and Oriſſa, and all other Territories and Iſlands adjacent thereunto, and which now are or ought to be dependent thereupon: And We do hereby commit and grant to the ſaid Supreme Court of Judicature, at Fort William in Bengal, full Power and Authority to take Cognizance of, hear, examine, try, and determine, all Cauſes, Civil and Maritime, and all Pleas of Contracts, Debts, Exchanges, Policies of Aſſurance, Accounts, Charter Parties, Agreements, Loading of Ships, and all Matters and Contracts, which in any Manner whatſoever relate to Freight or Money due for Ships, hired and let out, Tranſport Money, Maritime Uſury or Bottomry, or to Extortions, Treſpaſſes, Injuries, Complaints, Demands, and Matters, Civil and Maritime, whatſoever, between Merchants, Owners, and Proprietors of Ships and Veſſels, employed or uſed within the Juriſdiction aforeſaid, or between others, contracted, done, had or commenced, in, upon, or by the Sea or public Rivers, or Ports, Creeks, Harbours, and Places overflown, within the ebbing and flowing of the Sea and High Water Mark, within, about and throughout the ſaid Three Provinces, Countries, or Diſtricts, of Bengal, Bahar, and Oriſſa, and all the ſaid Territories or Iſlands adjacent thereunto, and dependent thereupon, the Cognizance whereof doth belong to the Juriſdiction of the Admiralty, as the ſame is uſed and exerciſed, in that Part of Great Britain, called England, together with all and ſingular their Incidents, Emergents, and Dependencies, annexed and connexed Cauſes whatſoever, and to proceed ſummarily therein, with all poſſible Diſpatch, according to the Courſe of our Admiralty of that Part of Great Britain, called England, without the ſtrict Formalities of Law, conſidering only the Truth of the Fact, and the Equity of the Caſe.

Extent of Juriſdiction, which is to be exerciſed as in Great Britain, without the ſtrict Formalities of Law.

Further Power in regard to Crimes Maritime;

And We do further commit to the ſaid Supreme Court of Judicature, at Fort William in Bengal, full Power and Authority, to enquire, hear, try, examine, and determine, by the Oaths of honeſt and lawful Men, being our Britiſh Subjects, reſident in the ſaid Town of Calcutta, and not otherwiſe, all Treaſons, Murders, Piracies, Robberies, Felonies, Maimings, Foreſtallings, Extortions, Treſpaſſes, Miſdemeanors, Offences, Exceſſes, and Enormities, and Maritime Crimes whatſoever, according to the Laws and Cuſtoms of the Admiralty, in that Part of Great Britain, called England, done, perpetrated or committed upon the High Seas, within the Limits and Juriſdiction aforeſaid; and to fine, impriſon, correct, puniſh, chaſtiſe, and reform Parties guilty, and all Violators of the Law, Uſurpers, Delinquents, contumacious Abſenters, Maſters of Ships, Mariners, Rowers, Fiſhers, Shipwrights, and other Workmen, exerciſing any Kind of Maritime Affairs, according to the ſaid Civil and Maritime Laws, Ordinances, and Cuſtoms, and their reſpective Demerits; and to deliver and diſcharge Perſons impriſoned in that Behalf, who ought to be delivered, and to take Recognizances, Obligations, Stipulations, and Cautions, as well to Our Uſe as at the Inſtance of other Parties, and to put the ſame in Execution, or to cauſe or command them to be executed; and alſo to arreſt, or cauſe or command to be arreſted, according to the Civil Law, and the ancient Cuſtoms of our High Court of Admirality, in that Part of Great Britain called England, all Ships, Perſons, Things, Goods, Wares, and Merchandizes, for the Premiſes, and every of them, and for other Cauſes whatſoever, concerning the ſame, whereſoever they ſhall be met with or found, in or throughout the ſaid Diſtricts, and Juriſdictions aforeſaid; and to compel all Manner of Perſons in that Behalf, as the Caſe ſhall require, to appear and anſwer in the ſaid Court, with Power of uſing any temporal Coertion, and inflicting Mulcts and Penalties, according to the Laws and Cuſtoms aforeſaid; and moreover to compel Witneſſes, in caſe they ſhould withdraw themſelves for Intereſt, Fear, Favour, or Ill Will, or other Cauſe whatſoever, to give Evidence to the Truth, in all and every the Cauſe or Cauſes above-mentioned, according to the Exigencies of the Law, and to proceed in ſuch Cauſe or Cauſes, according to the Civil and Maritime Laws and Cuſtoms, as well as of mere Office mixed, or promoted, at the Inſtance of any Party, as the Caſe may require, and to promulge and interpoſe all Manner of Sentences and Decrees, and put the ſame in Execution, according to the Courſe and Order of the Admiralty, as the ſame is now uſed in that Part of Great Britain called England.

to puniſh Offenders;

and to deliver and diſcharge them.

May arreſt Ships, &c.

To compel Perſons to appear, under Penalties.

Witneſſes to anſwer according to the Law Civil and Maritime, as is now uſed in Great Britain.

And we do hereby ordain and appoint, that all Affidavits, taken in the ſaid Supreme Court of Judicature, at Fort William in Bengal, or before any Juſtice thereof, ſhall be made on Oaths adminiſtered in ſuch Form and Manner as is before directed in the Caſe of Witneſſes, to be examined before the ſaid Supreme Court of Judicature, at Fort William in Bengal; and that in all Civil Caſes, the Affirmation in Writing of a Quaker, which the ſaid Court, or any Juſtice of the ſaid Supreme Court of Judicature, at Fort William in Bengal, as the Caſe may require, are hereby authorized and impowered to take, ſhall be of the ſame Weight, Authority, and Effect, as an Affidavit upon Oath: Provided always, That the ſeveral Powers and Authorities, hereby to proceed in Maritime Cauſes, and, according to the Laws of the Admiralty, ſhall extend and be conſtrued to extend only to the Subjects of Us, Our Heirs or Succeſſors, who ſhall reſide in the Kingdoms or Provinces of Bengal, Bahar, and Oriſſa, or ſome of them, and to Perſons who ſhall, when the Cauſe of Suit or Complaint ſhall have ariſen, have been employed by, or ſhall then have been, directly or indirectly, in the Service of the ſaid United Company, or of any of Our Subjects.

Affidavits and Affirmations in the Court of Admiralty.

And We do hereby reſerve to Ourſelves, Our Heirs and Succeſſors, all Amerciaments, Fines, Ranſoms, and Forfeitures, to be ſet and impoſed by the ſaid Supreme Court of Judicature, at Fort William in Bengal, or otherwiſe incurred: Provided always, That it ſhall be lawful, and We hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to make ſuch Satisfaction to Proſecutors of Informations or Indictments, as to the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall ſeem reaſonable and fit, out of any Fine, to be by them ſet or impoſed, upon any Perſon or Perſons, who ſhall be convicted on ſuch Proſecutions.

Fines, &c. reſerved to the King.

Satisfaction to be made to Proſecutors, out of Fines ſet by the Court.

And it is Our further Will and Pleaſure, and We do hereby direct, eſtabliſh, and ordain, That if any Perſon ſhall find him, her, or themſelves aggrieved, by any Judgment, Decree, Order, or Rule, of the ſaid Supreme Court of Judicature, at Fort William in Bengal, in any Caſe whatſoever, it ſhall and may be lawful, for him and them to appeal to Us, Our Heirs or Succeſſors, in Our or their Privy Council, in ſuch Manner, and under ſuch Reſtrictions and Qualifications, as are hereinafter mentioned; that is to ſay, in all Judgments, Decrees, or Decretal Orders, made by the ſaid Supreme Court of Judicature, at Fort William in Bengal, in any Civil Cauſe, the Party and Parties againſt whom, or to whoſe immediate Prejudice the ſaid Judgment, Decree or Decretal Order, ſhall be or tend, may, by his or their humble Petition, to be preferred for that Purpoſe to the ſaid Supreme Court of Judicature, at Fort William in Bengal, pray Leave to appeal to Us, Our Heirs or Succeſſors, in Our or their Privy Council, ſtating in ſuch Petition the Cauſe or Cauſes of Appeal; and in caſe ſuch Leave to appeal ſhall be prayed by the Party or Parties, who is or are directed to pay

Appeal allowed to the King in Council, from the Supreme Court in Civil Cauſes, by Petition to that Court.

Security on ſuch Appeal, for Coſts, and Performance of Judgment.

any Sum of Money, or to perform any Duty, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall and is hereby empowered to award, that ſuch Judgment, Decree, Rule, or Order, ſhall be carried into Execution, or that ſufficient Security ſhall be given, for the Performance of the ſaid Judgment, Decree, Rule, or Order, as ſhall be moſt expedient to real and ſubſtantial Juſtice: Provided always, That where the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall think fit to order the Judgment, Decree, Rule, or Order, to be executed, Security ſhall be taken from the other Party or Parties, for the due Performance of ſuch Order or Decree, as We, Our Heirs or Succeſſors, ſhall think fit to make thereupon; and in all Caſes We will and require, that Security ſhould alſo be given, to the Satisfaction of the ſaid Supreme Court of Judicature, at Fort William in Bengal, for the Payment of all ſuch Coſts as the ſaid Supreme Court of Judicature, at Fort William in Bengal, may think likely to be incurred by the ſaid Appeal, and alſo for the Performance of ſuch Judgment or Order, as We, Our Heirs or Succeſſors, ſhall think fit to give, or make thereupon; and upon ſuch Order or Orders of the ſaid Supreme Court of Judicature, at Fort William in Bengal, thereupon made, being performed to their Satisfaction, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall allow the Appeal; and the Party or Parties ſo thinking him, her, or themſelves aggrieved, ſhall be at Liberty to prefer and proſecute his, her, or their Appeal, to Us, Our Heirs or Succeſſors, in Our or their Privy Council, in ſuch Manner and Form, and under ſuch Rules, as are obſerved in Appeals made to Us, from Our Plantations or Colonies, or from Our Iſlands of Guernſey, Jerſey, Sarke, and Alderney.

Supreme Court on ſuch Appeal to tranſmit a Copy of all Evidence.

And it is Our further Will and Pleaſure, and We do hereby direct and ordain, that, in all ſuch Caſes, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall certify and tranſmit, under the Seal of the ſaid Supreme Court of Judicature, at Fort William in Bengal, to Us, or Our Heirs or Succeſſors, Our or their Privy Council, a true and exact Copy of all the Evidence, Proceedings, Judgments, Decrees and Orders, had or made in ſuch Cauſes appealed.

In Criminal Suits the Court may allow or deny Appeal, and regulate the Terms.

And it is Our further Will and Pleaſure, that in all Indictments, Informations, and Criminal Suits and Cauſes whatſoever, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall have the full and abſolute Power and Authority to allow, or deny, the Appeal of the Party pretending to be aggrieved, and alſo to award, order and regulate, the Terms upon which ſuch Appeals ſhall be allowed, in ſuch Caſes in which the ſaid Supreme Court of Judicature, at Fort William in Bengal, may think fit to allow ſuch Appeal.

Reſervation of Power to the King to refuſe an Appeal.

Court to execute Judgments and Orders of His Majeſty.

No Appeals to be allowed, except the Petition ſhall be preferred within 6 Months, and unleſs the Matter ſhall exceed 1000 Pagodas.

And We do hereby alſo reſerve to Ourſelf, Our Heirs and Succeſſors, in Our or their Privy Council, full Power and Authority, upon the humble Petition of any Perſon or Perſons aggrieved by a Judgment, Decree or Decretal, or other Order or Rule, of the ſaid Supreme Court of Judicature, at Fort William in Bengal, to refuſe or admit his, her, or their Appeal therefrom, upon ſuch Terms, and under ſuch Limitations, Reſtrictions and Regulations, as We or they ſhall think fit, and to reform, correct or vary ſuch Judgment, Decree or Orders, as to us or them ſhall ſeem meet: And We do further direct and ordain, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall in all ſuch Caſes conform and execute, or cauſe to be executed, ſuch Judgments, and Orders, as We ſhall think fit to make in the Premiſes, in ſuch Manner as any Original Judgment, Decree or Decretal, or other Order or Rule, by the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhould or might have been executed: Provided always, that no Appeal ſhall be allowed by the ſaid Supreme Court of Judicature, at Fort William in Bengal, unleſs the Petition for that Purpoſe ſhall be preferred within Six Months, from the Day of pronouncing the Judgment, Decree or Decretal Order complained of, and unleſs the Value of the Matter in Diſpute ſhall exceed the Sum of One Thouſand Pagodas.

Governor General and Council, Chief and other Juſtices, not to be arreſted, except for Treaſon or Felony.

Provided alſo, and We do hereby limit and declare, that the Perſon or Perſons of the Governor General, or of any of the Council, appointed in and by the above recited Act of Parliament, or of the Chief Juſtice, or any of the Juſtices of the ſaid Supreme Court of Judicature, at Fort William in Bengal, hereby erected and created, ſhall not, nor ſhall any of them reſpectively, be ſubject or liable to be arreſted, or impriſoned, upon any Action, Suit, or Proceeding in the ſaid Court, except in Caſes of Treaſon or Felony; nor ſhall the ſaid Supreme Court of Judicature, at Fort William in Bengal, be competent to hear, try and determine, any Indictment or Information, againſt the ſaid Governor General, or any of the ſaid Council, for the Time being, for any Offence, not being Treaſon or Felony, which the ſaid Governor General, or any of the ſaid Council, ſhall or may be charged with having committed, in Bengal, Bahar, or Oriſſa, any Thing herein before contained to the contrary notwithſtanding; but in all ſuch Caſes above mentioned, wherein a Capias, or Proceſs, for arreſting the Body is hereby given and provided, it ſhall and may be lawful, for the ſaid Supreme Court of Judicature, at Fort William in Bengal, to order the Goods and Eſtate of ſuch Perſons to be ſeized and ſequeſtered, until he or they reſpectively ſhall appear, and yield Obedience to the Judgment, Decree, Decretal, or other Order or Rule of the ſaid Court.

Their Goods and Eſtates may be ſeized and ſequeſtered.

Court Room for holding Supreme Court to be provided.

Chief Juſtice to be ſworn.

Puiſne Juſtices to be ſworn.

All future Juſtices to be ſworn, before they can act.

And it is Our further Will and Pleaſure, and We do hereby direct, ordain and appoint, that the ſaid Chief Juſtice, and other Juſtices, ſhall reſpectively aſſemble themſelves, in a proper Court or Room, to be by them appointed for that Purpoſe, forthwith after their reſpective Arrivals at the ſaid Town of Calcutta, in Bengal aforeſaid; and before they ſhall proceed to execute the above mentioned Powers or Authorities, or any of them, the ſaid Chief Juſtice ſhall then and there take an Oath, in the moſt ſolemn Manner, that he will to the beſt of his Knowledge, Skill and Judgment, duly and juſtly execute the Office of Chief Juſtice, of the ſaid Supreme Court of Judicature, at Fort William in Bengal, and impartially adminiſter Juſtice in every Cauſe, Matter or Thing, which ſhall come before him, and ſhall alſo take the Oath of Allegiance and Supremacy, and make and ſubſcribe the Declaration againſt Tranſubſtantiation, in ſuch Manner and Form as the ſame are by Law appointed to be taken or made in Great Britain; of which Oaths a Record ſhall be forthwith made: And We do hereby authorize the ſaid Puiſne Juſtices, or ſo many of them as ſhall be ſo aſſembled, to adminiſter the ſaid Oaths and Declarations, and make ſuch Record thereof accordingly; after which the ſaid Puiſne Juſtices, or ſo many of them as ſhall then and there be preſent, ſhall take the like Oaths, and make and ſubſcribe the like Declarations, only changing what ought to be changed for that Purpoſe, before the ſaid Chief Juſtice, of which Oaths alſo a Record ſhall be forthwith made: And we do hereby authorize the ſaid Chief Juſtice to adminiſter the ſaid Oaths and Declarations, and record the ſame accordingly; or if the ſaid Chief Juſtice, or any other of the ſaid Juſtices ſhall be dead, or unavoidably abſent, by Sickneſs or otherwiſe, We do hereby authorize the next Juſtice of the ſaid Supreme Court of Judicature, at Fort William in Bengal, who ſhall be there preſent, to take and adminiſter the ſaid Oaths, and act, in all Reſpects, as the Chief Juſtice ſhould have done: And we do hereby further ordain and eſtabliſh, that all and every ſucceeding Chief Juſtice and Puiſne Juſtices ſhall, before he or they be capable of exerciſing the ſaid Office, reſpectively take, in open Court, the like Oaths, and make and ſubſcribe the like Declaration, only changing what ought to be changed for that Purpoſe, whereof Records ſhall be made and filed among the other Records of the Court, from Time to Time; and after the ſaid Chief Juſtice and Puiſne Juſtices, or ſo many of them as ſhall then and there aſſemble, and be preſent, ſhall have taken the ſaid Oaths, and made and ſubſcribed the like Declaration, the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall be proclaimed and publiſhed in due Manner, and proceed forthwith to the Execution of the ſeveral Authorities hereby veſted in it.

Former Charter of 26th George II. to be void after Publication of the Supreme Court.

Judgments pronounced by the Mayor's Court to be in Force.

Proceedings depending in the Mayor's Court, &c. not to be abated, but transferred to the Supreme Court,

And it is Our further Will and Pleaſure, that from and after ſuch publiſhing and proclaiming of the ſaid Supreme Court of Judicature, at Fort William in Bengal, the ſaid Mayor's Court of Calcutta, at Fort William in Bengal aforeſaid, granted, erected and created, by and in the above-mentioned Charter made in the Twenty-ſixth Year of Our ſaid Royal Grandfather, and alſo the Court of Record, in Nature of a Court of Oyer and Terminer, and Gaol Delivery, erected and created by the ſaid Charter, and all the Authority thereby given to the Preſident, or Governor or Council, of Fort William in Bengal, to be or act as Commiſſioners of Oyer and Terminer, and Gaol Delivery; and every Clauſe and Article in the ſaid Charter, which extends or relates to the Eſtabliſhment of the ſaid Mayor's Court of Calcutta, at Fort William in Bengal, or the ſaid Court of Oyer and Terminer, and Gaol Delivery, or to the Civil, Criminal, or Eccleſiaſtical Juriſdiction of the ſaid Courts, or any of them, ſhall ceaſe, determine, and be utterly void, to all Intents and Purpoſes whatſoever: Provided always, that no Judgment, Decree, Decretal, or other Order, Rule or Act, of the ſaid Mayor's Court of Calcutta, at Fort William in Bengal, or the ſaid Courts of Oyer and Terminer, and Gaol Delivery reſpectively, theretofore legally pronounced, given, had or done, ſhall be thereby avoided, but ſhall remain in full Force and Virtue, as if theſe Preſents had not been made; nor ſhall any Indictment, Information, Action, Suit, Cauſe, or Proceeding, depending in the ſaid Mayor's Court of Calcutta, at Fort William in Bengal, or in the ſaid Courts of Oyer and Terminer, and Gaol Delivery, be abated or annihilated, but the ſame ſhall be transferred, in their then preſent Condition, reſpectively to, and ſubſiſt and depend in the ſaid Supreme Court of Judicature, at Fort William, to all Intents and Purpoſes, as if they had been reſpectively commenced in the laſt mentioned Court: And We do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to proceed accordingly in all ſuch Indictments, Informations, Actions, Suits, Cauſes and Proceedings, and to make ſuch Orders reſpecting the ſame, and alſo reſpecting any Sum or Sums of Money belonging to the Suitors, at the ſaid Mayor's Court of Calcutta, at Fort William in Bengal, as the ſaid Mayor's Court of Calcutta, at Fort William in Bengal, or the ſaid Court of Oyer and Terminer, and Gaol Delivery, might have made, or as the ſaid Supreme Court of Judicature, at Fort William in Bengal, is hereby impowered to make, in Cauſes commenced or depending before the ſaid Supreme Court of Judicature, at Fort William in Bengal: for which Purpoſe, it is Our further Will and Pleaſure, that all the Records, Muniments and Proceedings whatſoever, of or belonging to the ſaid Mayor's Court of Calcutta, at Fort William in Bengal, or to the ſaid Courts of Oyer and Terminer, and Gaol Delivery, ſhall be delivered over, depoſited, and preſerved among the Records of the ſaid Supreme Court of Judicature, at Fort William in Bengal.

Records of the Mayor's Court, &c. to be delivered over to the Supreme Court.

Four Terms, and Sittings after Term, to be appointed in each Year.

And We do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal (Reſpect being had to the Seaſons of the Year, and the Convenience of the Suitors) to ſettle and appoint proper Terms and Law Days, and Days for Sittings after Term, and to proclaim, hold, and adjourn the Seſſions of Oyer and Terminer, and Gaol Delivery, and Admiralty Seſſions, as to them ſhall ſeem moſt expedient; provided nevertheleſs, that the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall, and they are hereby required to appoint not leſs than Four Terms in the Year, each Term conſiſting of Four Weeks at the leaſt, in each Year, and Sittings after each Term, each Sitting to conſiſt of Fourteen Days, if the Buſineſs of the ſaid Supreme Court of Judicature, at Fort William in Bengal, be not ſooner diſpatched; and that the ſaid Supreme Court of Judicature, at Fort William in Bengal, do in each Year hold Two Seſſions of Oyer and Terminer, and Gaol Delivery.

Duration of Terms, and Sittings.

Two Seſſions to be held every Year.

Court to frame Rules of Practice, &c. and tranſmit them to the Privy Council for Approval.

And We do hereby authorize and empower the ſaid Supreme Court of Judicature, at Fort William in Bengal, to frame ſuch Rules of Practice, and make ſuch ſtanding Orders, for Adminiſtration of Juſtice, and the due Exerciſe of the Civil, Criminal, Admiralty and Eccleſiaſtical Juriſdiction, hereby created, and to do all ſuch other Things as ſhall be found neceſſary thereunto, ſo as the ſaid Supreme Court of Judicature, at Fort William in Bengal, ſhall, from Time to Time tranſmit the ſame, under the Seal thereof, to Us, Our Heirs or Succeſſors, in Our Privy Council, for Our Approbation, Control or Alteration: And We do hereby reſerve, to Us, Our Heirs and Succeſſors, with the Advice of Our or their Privy Council, full Power and Authority to approve, reject, control, or vary the ſame, and to make ſuch new and other Rules of Practice, and Rules and Orders, for the Proceſs of the ſaid Supreme Court of Judicature, at Fort William in Bengal, as to Us or them ſhall appear fit and convenient, which We will and ordain ſhall be in Force, from ſuch Time or Times as the ſame ſhall be reſpectively tranſmitted to the ſaid Supreme Court of Judicature, at Fort William in Bengal.

All the King's Officers and Subjects to be obedient to the Supreme Court.

And We do further hereby ſtrictly charge and command all Our Governors, Commanders, Magiſtrates, Officers and Miniſters, Civil and Military, and all Our faithful and liege Subjects whatſoever, in and throughout the ſaid Provinces, Countries or Diſtricts, of Bengal, Bahar, and Oriſſa, and all other Lands, Iſlands, or Territories, adjacent thereunto, and which are or ought to be dependent thereupon, that in the Execution of the ſeveral Powers, Juriſdictions and Authorities, hereby erected, created and made, they be aiding, aſſiſting, and obedient in all Things, unto the ſaid Supreme Court of Judicature, at Fort William in Bengal, as they will anſwer the contrary at their Peril.

26th March, 14th Year of the Reign.

In Witneſs whereof, We have cauſed theſe Our Letters to be made Patent. Witneſs Ourſelf, at Weſtminſter, this Twenty-ſixth Day of March, in the Fourteenth Year of Our Reign.

By Writ of Privy Seal.

COCKS.

GENERAL

GENERAL APPENDIX, Nº 2.

(COPY.)

Rules and Orders of the Supreme Court of Judicature, at Fort William in Bengal.

1ſt.

THAT every Advocate, before he be admitted, and his Name inrolled in this Court, ſhall take the Oath of Allegiance.

2d.

That every Officer of this Court, before his Admiſſion to his Office, do take the Oath of Allegiance; and likewiſe an Oath, that he will duly and honeſtly execute his Office, according to the beſt of his Knowledge and Ability.

3d.

That every Attorney and Proctor, before he be admitted, and have his Name inrolled, do take the Oath of Allegiance; and likewiſe an Oath, that he will truly and honeſtly demean himſelf, in the Practice of an Attorney or Proctor, as the Caſe may be, according to the beſt of his Knowledge and Ability.

4th.

That the Maſters do attend this Court, whenever thereunto called upon by this Court; and that the Sheriff, or his Deputy, do give daily Attendance, during ſuch Time as this Court ſhall be ſitting; and that the ſeveral Clerks and Officers of this Court do conſtantly and daily attend in their Places, whilſt this Court is ſitting, on that Department of its Buſineſs to which their Offices do reſpectively belong; and that the Maſters and Sheriff, or his Deputy, and all other Clerks and Officers of this Court, do keep ſeparate Books in their reſpective Offices, for the ſeveral Buſineſs belonging thereto.

5th.

That the Office of Regiſters, Clerk of the Crown, Prothonotary, Sworn Clerks, Clerks of the Papers and Sealer of this Court, be open for the Diſpatch of Buſineſs, from Nine of the Clock in the Forenoon until Twelve at Noon, and from the Hour of Six in the Afternoon until Eight of the Clock in the Evening; and that a Copy of this Order be affixed in ſome conſpicuous Part of each of the ſaid Offices.

6th.

That every Attorney, and every Party who ſhall not employ an Attorney, do perſonally attend the Maſter, or any Officer of this Court, to whom Coſts ſhall be referred to be taxed, or other Matter ſhall be referred for Examination, at Times to be prefixed upon Notice thereof to be given to ſuch Parties or Attornies, to tax ſuch Coſts, or examine ſuch Matters, as ſhall be in Reference before him.

7th.

That every Attorney concerned in any Cauſe, Matter, or Thing, in this Court, ſhall be reſponſible to the ſeveral Officers of this Court, and to the Sheriffs, for their Fees; and ſhall, on or before the Firſt Day of the ſucceeding Term, pay up all Arrears of the laſt Term to that Day; and the Name of every Attorney neglecting to pay the ſame, by the Time aforeſaid, ſhall be affixed in ſome conſpicuous Part of each reſpective public Office, together with a Writing, expreſſing the Cauſe thereof; and ſuch Attorney ſhall not be allowed, directly or indirectly, to practiſe in this Court, till he ſhall have paid ſuch Fees, and likewiſe a Fee of One Rupee to the Officer of every ſuch Office, for affixing ſuch Name in Manner aforeſaid, and likewiſe Ten Arcot Rupees to the Poor's Box: And that a Copy of this Order be affixed in every one of the public Offices.

8th.

That every Deputy appointed by the Sheriff ſhall, within One Day after his Appointment, fix up a Note, containing his Name, his Office, and particularly deſcribing his Place of Abode, in a conſpicuous Part of the Court Room wherein this Court ſhall uſually ſit, as alſo in the reſpective Offices of the Prothonotary, and the ſeveral Regiſters of this Court, to remain in ſuch Places during all the Time he ſhall continue in Office.

9th.

That every Party who ſhall not act or appear by Attorney, and every Attorney of this Court, do enter his Name and Place of Abode, particularly deſcribed, in a Book to be kept by the Prothonotary, or the Regiſter, in whoſe Office his Buſineſs ſhall be tranſacted; and the Service of all Rules, Orders, and Notices, where not otherwiſe directed by this Court, or a Judge thereof, on any Perſon who ſhall be found at ſuch Place ſo entered, or if there be no Perſon to be found at ſuch Place, or if no ſuch Entry ſhall be made, then the leaving ſuch Rules, Orders, or Notices, in the Office of the Prothonotary, or ſuch Regiſter, as is aforementioned, ſhall be deemed good Service on ſuch Party or Attorney.

10th.

That no Perſon be at Liberty to change his Attorney in any Cauſe, until he ſhall have duly paid and diſcharged the Bill of ſuch Attorney, for all Matters and Things done in the Cauſe, unleſs ſuch Attorney ſhall not deliver to ſuch Perſon his Bill within One Month after Demand made by him thereof, and until ſuch Perſon ſhall have given Notice to the adverſe Party, of his Intention to diſcharge his Attorney.

11th.

That all Perſons proſecuting Writs of Certiorari, before the Allowance thereof, enter into a Recognizance before the Chief Juſtice, or ſome one of the Juſtices of this Court, with Two ſufficient Manucaptors, in a Sum of Two hundred Sicca Rupees; which Recognizance ſhall be with Condition, at the Return of ſuch Writ, to appear and plead to the Indictment or Preſentment in this Court, and at his own Coſts to procure the Iſſue joined upon the ſaid Indictment or Preſentment, or any Plea relating thereto, to be tried at the next Seſſions of Oyer and Terminer and General Gaol Delivery, to be held in and for the Town of Calcutta, and Factory of Fort William, in Bengal, next after ſuch Certiorari ſhall be returnable, unleſs this Court ſhall appoint any other Time, and if any other Time ſhall be appointed, then at ſuch other Time, and to give due Notice to the Proſecutor; and alſo that the Party or Parties proſecuting ſuch Writ of Certiorari, ſhall appear from Day to Day in this Court, and not depart until he or they ſhall be diſcharged by this Court: And ſuch Recognizances, Certiorari, and Indictment, ſhall be filed in the Office of the Clerk of the Crown, and the Name of the Proſecutor, if he be the Party injured, and that of ſuch Clerk of the Crown, ſhall be indorſed thereon, together with the Day and Year when ſuch Clerk received the ſame; and if the Perſon proſecuting ſuch Writ of Certiorari, being the Defendant, ſhall not, before Allowance thereof, procure ſuch Manucaptors to be found as aforeſaid, the Juſtices of the Peace, or other inferior Magiſtrates, may proceed to the Trial of the Indictment or Cauſe, notwithſtanding ſuch Certiorari; and if the Defendant proſecuting ſuch Certiorari be convicted, the Maſter ſhall proceed to tax the Proſecutor his Coſts, if he be the Party aggrieved or injured, or be a Civil Officer, who ſhall proſecute on account of any Fact that concerned him as Officer to proſecute or preſent; and in caſe ſuch Defendant or Defendants ſhall not, within Ten Days after Demand, pay ſuch Coſts, he, ſhe, or they ſhall be fined and impriſoned for ſuch Contempt; and the ſaid Recognizance ſhall not be diſcharged, till the Coſts ſo taxed ſhall be paid.

12th.

That no Attorney of this Court do permit any Perſon whatſoever, to practiſe or do any Act whatſoever, in this Court, in his Name.

13th.

That whenever any Act is allowed or required to be done by any Writ, Precept, Rule, Order, or Proceſs of this Court, or by Notice given by any Party to any Suit, or other Perſon, and a certain Number of Days are expreſſed therein, ſuch Days ſhall be computed, excluſive of the Day on which it bears Teſte, and in caſe where there be no Teſte, excluſive of the Day on which the ſame ſhall have been ſerved, and incluſive of the Day on which the Act is to be done; and that Sunday, and every Day on which the Court ſhall not ſit, ſhall be reckoned one of the Days, except it ſhall happen to be the laſt Day, in which Caſe the next Day ſhall be added.

14th.

That all Writs, Precepts, Rules, (except Rules to plead) Orders, and Mandatory Proceſs concerning any Civil Matter, appertaining to the Common Law Juriſdiction of this Court, be prepared and made out by the Prothonotary, in the Name and Stile of Our Sovereign Lord the King, or His Heirs and Succeſſors, having and bearing the Atteſtation of the Chief Juſtice, or in the Vacancy of that Office, of the Senior Juſtice of this Court; and that the ſame be ſigned by the Prothonotary who ſhall prepare and make out the ſame, with his own Name, and be ſubſcribed with the Name of the Party or Attorney applying for the ſame, and be marked with the Day of the Month and Year when the ſame iſſued from his Office, and be by him, when returned, filed of Record; and that all ſuch Writs, Precepts, Rules, Orders, and Mandatory Proceſs, concerning any Matter appertaining to the Equitable, Eccleſiaſtical, or Admiralty Juriſdiction of this Court, be in like Manner prepared, made out, ſigned, and ſubſcribed by the reſpective Regiſter belonging to ſuch Juriſdiction; and that all ſuch Writs, Precepts, Rules, Orders, and Mandatory Proceſs, concerning any Criminal Matter whatſoever, other than Matters appertaining to the Eccleſiaſtical Juriſdiction, be in like Manner prepared, made out, ſigned, and ſubſcribed, by the Chief Clerk of the Crown Office of this Court: And that all and every ſuch beforementioned Writ, Precept, Rule, Order, and Mandatory Proceſs, before it ſhall be delivered to the Sheriff, or any other Perſon, to be executed;

cuted, be ſealed with the Seal of this Court, by the Sealer of this Court; and that all Writs, Precepts, Rules, Orders, or Mandatory Proceſs, which ſhall iſſue in Term, be teſted on the Day on which the ſame ſhall iſſue; and if the ſame ſhall iſſue in Vacation, except Writs of Habeas Corpus to deliver Priſoners, that they be teſted in the preceeding Term, and that the ſame be made returnable the Firſt Day of the next Term; and that all Writs and Precepts to compel the Appearance of any Perſon reſiding in the Town of Calcutta, or within Ten Miles thereof, in Term Time, have not more than Four Days between the Teſte and Return; and that in every Writ, Precept, Rule, Order, and Proceſs, to be executed out of the Town of Calcutta at a greater Diſtance than Ten Miles from the ſame, there be ſuch Time between the Teſte and Return thereof, as, Reſpect being had to the Diſtance of the Place where the ſame is to be executed, may be requiſite for the Execution thereof, ſo that no greater Time be between ſuch Teſte and Return, than from the Firſt Day of one Term to the laſt Day of the Term next ſubſequent; and, if on Occaſion of great Diſtance, or from Circumſtances incident to travelling into the remote Parts of Bengal, Bahar, or Oriſſa, the Sheriff ſhall not be able to execute and return the ſame at the Day of the Return thereof, ſuch further Time or Times may be allowed to the Sheriff for the ſame, as on his Application to the Court ſhall ſeem reaſonable; and that no Fee be taken by any Officer of this Court, for any Act by him to be done in conſequence of ſuch Application; and that the Execution of ſuch Writ, Precept, Rule, Order, or Proceſs, be deemed valid, though after the Return Day mentioned therein, ſo that it be executed within the Time given by the Court for the Execution and Return thereof, and the Sheriff ſhall return the ſame on ſuch Day; and on the Return thereof, the Prothonotary or ſuch Officer into whoſe Department it ſhall be returned, ſhall, before the filing thereof, mark on the ſame Day to which the Court had granted Time for the Return thereof; and if it ſhall be to compel the Appearance of any Defendant, ſuch Defendant ſhall appear on ſuch laſt-mentioned Day, or if he ſhall have been arreſted, and given a Bail Bond to the Sheriff, ſuch Defendant ſhall have Four Days after ſuch laſt-mentioned Day, to put in Bail to the Action; and no Proceedings ſhall be had on the Bail Bond, at the Suit of the Plaintiff in the Cauſe, till after ſuch Four Days; and all Proceedings as to putting in Bail ſhall be, as if the laſt Day to which Time had been given, had been the Return-Day mentioned in ſuch Proceſs. And it is further ordered, that every Habeas Corpus for the Delivery of a Priſoner, ſhall bear ſuch Teſte as the Chief Juſtice or Judge granting the ſame ſhall ſpecially direct; and may be, if in Vacation Time, or ſo near the End of a Term that the ſame cannot be conveniently returned in Term, made returnable before the Chief Juſtice, or any Judge of this Court.

15th.

That the Seal of this Court be not put to any Writ, Precept, Rule, Order, or Mandatory Proceſs, unleſs the ſame be ſigned with the Name of the proper Officer to whom it ſhall belong to prepare and make out the ſame; and unleſs the Name of a Party or Attorney be ſubſcribed thereunto, together with the Day of the Month and Year when the ſame ſhall iſſue from ſuch Office; and that no Officer of this Court do ſign or put the ſaid Seal to any Writ of Habeas Corpus, Certiorari, Error, Prohibition, Precedents, or Injunction, unleſs the ſame ſhall be ſigned with the Name, and in the proper Hand Writing of a Judge of this Court.

16th.

That no Capias be made out of the Prothonotary, unleſs a Writ of Summons ſhall have been firſt made out, and the Sheriff ſhall have returned, that he hath ſummoned the Defendant to appear, and the Defendant ſhall not have appeared accordingly, except the Court, or ſome Judge thereof, being ſatisfied, by Affidavit, or Affirmation in Writing of a Quaker that the Cauſe of Action is above One hundred current Rupees, or that ſome enormous perſonal Wrong hath been made or committed by the Defendant againſt the Plaintiff, ſhall order the ſame; and that no Clauſe authorizing the Sheriff to take Bail, be inſerted in ſuch Capias, except the Court, or a Judge thereof, ſhall order ſuch Clauſe to be inſerted therein; and if ſuch Order be made, that the Capias be marked at the Bottom, in caſe of Defendant or Damages, with the Sum ſworn to by the Plaintiff; and in caſe of enormous perſonal Wrong, the Sum which the Court, or the Judge ordering the ſame, ſhall think proper the Bail ſhould be liable to, if the Bail Bond ſhall be forfeited; and that the Sheriff be not authorized to take Bail but in the Sum which ſhall be required by the Court or Judge thereof, and expreſſed in the ſaid Clauſe; and that no Two Writs of Execution be iſſued at the ſame Time, except where Judgement ſhall be given in a Plaint in Treſpaſs, in Ejectment for the Plaintiff, in which Caſe the Prothonotary may iſſue the Writ of Execution againſt the Effects, or a Capias ad Satisfactionem, together with a Writ of Poſſeſſion, if the Plaintiff ſhall ſo require, except the Court, or ſome Judge thereof, ſhall make ſpecial Order that Two Writs do iſſue at the ſame Time; and no Writ of Execution againſt the Effects do iſſue in any Cauſe in which a Capias ad Satisfactionem ſhall have firſt iſſued.

17th.

It is ordered, that no Summons to any Defendant to appear in any Plaint levied in this Court, if ſuch Defendant do not reſide within the Town of Calcutta or Ten Miles thereof, do iſſue from the Prothonotary's Office, unleſs Affidavit be made, to the Satisfaction of the Court, or a Judge thereof, that the Defendant is ſubject to the Juriſdiction of the Court, and that the Affidavit do particularly ſpecify in what Manner the Defendant is ſubject to the Juriſdiction of the Court.

18th.

It is ordered, that every Affidavit ſworn before this Court, or a Judge thereof, for the Purpoſe of a Capias iſſuing in any Cauſe, do particularly ſpecify in what Manner the Defendant is ſubject to the Juriſdiction of the Court.

19th.

That the Sheriff or his Deputy do not deliver or make out, nor cauſe or ſuffer to be made out, any Summons or Warrant, before the Writ, Precept, Rule, Order, or Proceſs, which ſhall be the Authority for the ſame, be duly ſued forth and delivered to the Sheriff or his Deputy; and that the ſaid Sheriff or his Deputy do not deliver or make out, or cauſe to be delivered or made out, any Blank Summons or Warrant.

20th.

That the Sheriff at the Execution of every ſuch Writ of Execution againſt the Effects, do, where there are more Effects of the Party againſt whom ſuch Writ ſhall have iſſued than ſhall be ſufficient to anſwer the Judgement, levy, ſeize, and ſell ſuch Effects, if ſuch Sheriff can procure Purchaſers thereof, in ſuch Order as ſhall be moſt convenient to ſuch Party, and as he or his Attorney ſhall direct.

21ſt.

That every Writ of Capias ad Satiſfaciendum be endorſed by the Party or his Attorney ſuing out the ſame, with the Sum to which the real Debt ſhall amount, before the ſaid Writ be delivered to the Sheriff; and no greater Poundage ſhall be taken for executing ſuch Writ, or charging any Perſon in Execution by virtue of ſuch Writ, for a greater Sum than the real Debt amounts to.

22d.

That the Sheriff or his Deputy do mark at the Bottom of every Writ, Precept, Rule, Order, or Proceſs, which ſhall come to him, the Day of the Month and Year when the ſame was delivered to him; and do mark at the Bottom of every Warrant which he ſhall deliver, the Names of the Party or Attorney which is ſubſcribed to the Writ, Precept, Rule, Order, or Proceſs, on which the ſaid Warrant ſhall be grounded.

23d.

That every Writ, Precept, Rule, Order, or Proceſs, be duly executed, and the ſame duly returned, by the Sheriff, or ſuch Perſon to whom the ſame ſhall be directed, on the Return Day mentioned therein, into the Office out of which the ſame ſhall have iſſued, or in open Court, to be filed by the Prothonotary or Regiſter of that Department of the Court out of which the ſame ſhall have iſſued, without expecting any further Day or Days of Grace, except a Clauſe to be inſerted therein, whereby the Sheriff ſhall be authorized to take Bail.

24th.

That where a Writ or Precept ſhall be directed to the Sheriff, in which a Clauſe ſhall be inſerted, authorizing the Sheriff to take Bail, the Sheriff ſhall not be compelled to return the ſame, until Four Days after the Return mentioned therein; and if he ſhall return Cepi Corpus, he ſhall not be compelled to bring in the Body of the ſaid Defendant until Four Days after ſuch Return made, and until a Rule ſhall have been ſerved upon him for each of the ſaid Purpoſes reſpectively.

25th.

That the Sheriff do not deliver any Perſon arreſted by virtue of any Proceſs iſſuing out of this Court, to Bail, or take, by Colour of his Office, any Obligation from ſuch Perſon, or any Surety for his Appearance at the Return of ſuch Proceſs, but to himſelf, and in the Name of his Office, and that only in Caſes where a Clauſe ſhall be inſerted in ſuch Proceſs, authorizing him to take Bail for ſuch Perſon; and the Condition of ſuch Obligation ſhall expreſs the Terms on which the Sheriff is authorized by the ſaid Proceſs to deliver ſuch Defendant to Bail, and ſhall be that the ſaid Defendant will perform the ſame.

26th.

That the Sheriff do deliver a true Copy of the Inventory of any Goods ſeized or ſequeſtered by virtue of any Writ or Order of this Court, ſubſcribed with his Name, or the Name of his Deputy, to the Party, or his Attorney, requiring the ſame, and paying ſuch Fee as by the Table of Fees is required.

27th.

That if the Sheriff, or any other Perſon intruſted with the Execution of any ſuch Writ, Precept, Rule, Order, or Proceſs, ſhall wilfully delay the Execution or Return of the ſame, or ſhall take any undue Fee for the ſame, or ſhall give Notice thereof to any Perſon, thereby to fruſtrate the Execution of the ſame, or having levied Money ſhall detain it in his Hands after the ſaid Return, the ſaid Sheriff, or other Perſon ſo offending, ſhall be ſummarily and exemplarily puniſhed for ſuch Contempt and Miſdemeanor; and that no Perſon whatſoever be permitted to ſearch the Sheriff's Office for any Writ of Execution, or for any Meſne Proceſs, except an Attorney of this Court, and unleſs ſuch Attorney will undertake to put in Bail to the Action, or appear for the Defendant, as the Caſe may require.

28th.

That every Sheriff do, at the Expiration of his Office, deliver over to the ſucceeding Sheriff, all ſuch Writs, Precepts, Rules, Orders, and Proceſs, as ſhall remain in his Hands unexecuted; and that the ſucceeding Sheriff do return and execute the ſame in ſuch Manner as the former Sheriff was required; and that the Sheriff firſt mentioned do at the ſame Time deliver to the ſucceeding Sheriff, a Liſt of all Priſoners, together with the Cauſe of their Detention; and that the ſucceeding Sheriff do keep in his Cuſtody ſuch Priſoners, until they be diſcharged by due Courſe of Law.

29th.

That the Prothonotary do file of Record, all Plaints levied in this Court, and mark on the ſaid Plaints the Day and Year in which he ſhall receive and file the ſame; and no Petition to ſurceaſe Proceedings in any of the Courts of Juſtice eſtabliſhed in the Provinces or Diſtricts of Bengal, Bahar, or Oriſſa, on the Part of the Plaintiff in ſuch Court, be received by this Court until ſuch Petitioner, or his Attorney, ſhall have delivered his Plaint to the Prothonotary, to be filed of Record, and the Prothonotary ſhall have filed the ſame accordingly.

30th.

It is ordered, That every Plaint, Bill, Libel, Articles, or other Matter, whereby any Suit ſhall be commenced in this Court, and any Demand made of any Debt, Duty, or Damages, or Complaint of any Injury, and in every Indictment, Information, or Preſentment to be proſecuted in this Court, there be contained a Clauſe, in which it ſhall be averred, that the Defendant or Defendants to the ſaid Suit, is or are a Perſon or Perſons ſubject to the Juriſdiction of this Court; and that it ſhall not be neceſſary to ſtate ſpecially by what Means the Perſon or Perſons, is, or are ſubject to, the ſaid Juriſdiction: And it is further ordered, That the Defendant or Defendants ſhall not, after he or they ſhall have pleaded any other Plea than a Plea to the Juriſdiction, or after any Imparlance granted, be permitted, without the ſpecial Licence of the Court, to plead, or otherwiſe object to the Juriſdiction thereof; that in all Plaints filed in this Court, the Cauſe of Action be ſet forth in as few Words as the Nature of the Caſe will admit, and no Count be inſerted therein to which the Evidence afterwards to be given at the Trial will not apply; and that in all Plaints for breaking and entering the Plaintiff's Cloſe, to prevent the Uſe and Neceſſity of a common Bar and new Aſſignment, the Place where the Treſpaſs was committed be mentioned preciſely and certainly; and that in all Plaints in Covenant no more of the Deed be inſerted than is neceſſary for the Aſſignment of the Breach, and that the Covenant be not repeated in the Concluſion of the ſame. And it is further Ordered, That in all Plaints for Scandal, no Preamble be inſerted, and no other Inducement than ſuch as is neceſſary for the Maintenance of the Action; and that in Plaints founded on any general Statutes, there be no Recital of the Statute, but the ſame conclude againſt the Form of the Statute in that Caſe made and provided; and that in Plaints on Judgments obtained in this Court, the Judgment only be recited, except in Caſes of Judgments by Executors and Adminiſtrators, in which laſt Caſe the Plaint may recite the Declaration and Judgment, upon Pain that the Attorney for the Plaintiff offending herein, or where no Attorney be employed by the Plaintiff, the Plaintiff do pay ſuch Coſts as may accrue to the Defendant from the ſame.

31ſt.

It is Ordered, That in all Caſes of Diſtreſs taken of Goods repleviable by the Law of England, whereupon a Plaint in Replevin ſhall have been filed of Record in this Court, or where the Party whoſe Goods have been diſtrained ſhall authorize the Sheriff, or any one of his Deputies (whom he is hereby empowered to appoint for the Purpoſe of making Replevins) to file of Record a Plaint in Replevin, at the Expence of the ſaid Party, and in his Name or that of his lawful Attorney, againſt the Perſon or Perſons who ſhall have taken the ſaid Goods, the ſaid Sheriff ſhall by himſelf, or one of his ſaid Deputies replevy the ſaid Goods in the ſame Manner, and upon the like Securities, as the Sheriffs in England are by Law empowered to do; but all Securities to be taken by him for proſecuting Plaints in Replevin, ſhall be for proſecuting the ſame in this Court. And it is further Ordered, That the Sheriff ſhall forthwith return to, and file of Record with, the proper Officer of this Court, all Plaints ſo taken by him or his Deputies, whereupon he ſhall have made Replevin, together with an Indorſement ſetting forth the Day on which he or they ſhall have received the ſame. And it is further Ordered, That in all Caſes where the Perſon applying for ſuch Replevin ſhall happen to be a Native of India not ſubject to the Juriſdiction of this Court, then, and in ſuch Caſe always, the Penalty of the ſaid Bond ſhall be taken in a Sum exceeding Five hundred current Rupees, and that in the Obligation there ſhall be inſerted an Agreement, that the penal Sum, when forfeited, may be ſued for and recovered in this Court. And it is further Ordered, That in all Caſes where the Diſtrainor ſhall claim Property in any Part of the Goods diſtrained, that the Sheriff ſhall, notwithſtanding, proceed to replevy the ſame, leaving it to the Party diſtraining to put ſuch Property in Iſſue by his Avowry or Plea.

32d.

It is Ordered, That the Prothonotary of this Court ſhall receive every Plaint in Replevin, which ſhall be delivered to him by the *Sheriff*, and ſhall file the ſame of Record, in ſuch Manner and of ſuch Term as he would have filed the ſame if it had been delivered to him on the Day indorſed by the Sheriff thereupon, and ſhall mark in the Margin the Day when the Sheriff ſhall have delivered the ſame to him; and that Summons and other Proceſs of this Court ſhall iſſue thereupon, in like Manner as where Plaints ſhall be filed by the Plaintiffs themſelves, or by their common Attornies.

33d.

It is Ordered, That *in Actions of Treſpaſs in Ejectment*, the Name of no other Perſon ſhall be made uſe of as caſual Ejector, but that of the Cryer of this Court, on whom a Summons ſhall be ſerved; and that if the Tenant in Poſſeſſion ſhall not, in purſuance of Notice to be given to him in that Behalf, apply forthwith to this Court, and enter into a Rule to be made Defendant inſtead of the caſual Ejector, the Plaintiff may then enter an Appearance for, and confeſs the Plaint in the Name of, the caſual Ejector, whereupon Judgment ſhall be entered againſt him, and a Writ ſhall be awarded to the Sheriff to ſeize and deliver the Poſſeſſion of the Premiſes in the Declaration mentioned to the Plaintiff. But it is further Ordered, That the Tenant in Poſſeſſion ſhall be at Liberty to apply to this Court by Petition in Writing ſigned by himſelf or his Attorney, praying to be made Defendant in the Place of the caſual Ejector, and ſhall in ſuch Petition ſet forth whether he claims Title to the Whole or a Part only, and what Part, of the Premiſes in Queſtion; and ſhall thereby alſo confeſs the Leaſe and Entry ſtated in the Plaint againſt the caſual Ejector; and that he the ſaid Tenant did, after ſuch Entry, ouſt the Plaintiff from the Poſſeſſion of the Premiſes to which he claims Title by his Petition.

34th.

That where the Plaintiff ſhall proceed by Summons againſt the Defendant, he may have a Rule of Courſe, and ſhall enter the ſame in the Office of the Clerk of the Papers, for the Defendant to plead in Four Days; and the ſaid Defendant, or his Attorney, ſhall, on the Return Day of the Writ of Summons, file a common Appearance in the Office of the Prothonotary: And if ſuch Rule ſhall have been ſo entered, the Defendant, at the Time of filing ſuch Appearance, ſhall take Notice of the ſame, and ſhall plead within Four Days after the Day he ſhall have filed his Appearance, without any further Service of any Rule, or Demand of Plea: But if no ſuch Rule ſhall have been entered as aforeſaid, then ſuch Defendant ſhall not be compelled to plead until Four Days after ſuch Plaintiff, or his Attorney, ſhall have entered a like Rule to plead with the Clerk of the Papers, and ſhall have ſerved the ſame on the Defendant, or his Attorney.

35th.

That in every Suit commencing by Plaint, the Rule for all Pleadings, and Leave to imparle, be taken out from, and be entered in, a Book to be kept for that Purpoſe by the Clerk of the Papers; and that all the Pleadings in every Cauſe, be, at the ſeveral Times required by the Rule of this Court, or by Order, ſigned by any Judge of this Court, delivered to the ſaid Clerk; and that where any Defendant ſhall appear, or where the Plaintiff has delivered his Pleading in the Cauſe, in anſwer to any Plea, Rejoinder, or other Pleading of the Defendant, unto the Clerk of the Papers, and ſhall have entered with the ſaid Clerk, and duly ſerved the Defendant, or his Attorney, with a Rule to put in his Plea, Rejoinder, or other Pleading, as the State of the Caſe may require; before the Four laſt Days of any Term the Defendant ſhall put in his Plea, rejoin, or otherwiſe plead, as the Caſe may require, within ſuch Term, and ſhall not be entitled to any Imparlance, or further Time to plead, except it be otherwiſe ordered by this Court, or a Judge thereof; and if ſuch Appearance be not had, or ſuch Pleading of the Plaintiff be not delivered as aforeſaid, or ſuch Rules reſpectively, be not ſerved before the Fourth Day, to be computed from the End of the Term, then the Defendant ſhall be entitled to an Imparlance of Courſe, until the Firſt Day of the Term ſubſequent: And that if the Plaintiff do, in his Plaint or Pleadings, make Profert in Curiam of any Deed or Writing, and the Defendant ſhall pray Oyer thereof, he ſhall have Four Days to put in his Plea, after Oyer ſhall have been granted him, which ſhall be granted without Motion, and ſhall, at the End of the ſaid Four Days, deliver, as aforeſaid, ſuch Pleading, as the Caſe may require, without any further Rule or Notice whatſoever.

36th.

That no Plea in Abatement, Plea of Tender, or any other Plea, in which the Defendant ſhall alledge that he was always ready, be received after an Imparlance, except the Defendant be entitled to an Imparlance of Courſe; and in ſuch Caſe, that the Plea be received on the Continuance Day.

37th.

That no Money be paid into Court, without the Leave thereof firſt had and obtained.

38th. That

GENERAL APPENDIX, Nº 2.

38th.

That whenever a Tender ſhall be pleaded, or Leave obtained, to pay Money into Court, the Money be depoſited with the Clerk of the Papers, who ſhall write a Receipt on the Back of the Defendant's Plea, for the ſame, and ſhall pay it to Plaintiff, or his Attorney, on Demand, who ſhall likewiſe write a Receipt on the Back of the ſaid Plea; and if the Money ſo demanded hath been paid in on a Plea of Tender, all further Proceedings ſhall be ſtayed in that Suit: And if the Plaintiff, or his Attorney, accept the Money paid into Court, by Leave as aforeſaid, in full Satisfaction and Diſcharge of his Suit, Plaintiff or his Attorney ſhall, by his Receipt, acknowledge that the ſame was ſo received; and on the further Payment by the Defendant to the Plaintiff, of Coſts, to the Time on which ſuch Money was paid into Court, to be taxed by the Maſter, at the charge of the Defendant, all further Proceedings in the Suit ſhall be ſtayed: And if the Plaintiff, after the Money ſo paid into Court as aforeſaid, ſhall proceed in his Action, and ſhall not, at the Trial of the Cauſe, prove, to the Satisfaction of the Court, that more Money was due to him, than the Money ſo paid into Court, then ſuch Plaintiff ſhall be non-ſuited, and ſuch Coſts ſhall be adjudged to the Defendant as he ſhall have ſuſtained on that Behalf.

39th.

That ſeveral Matters be not pleaded, except on diſcloſing the ſame, the Leave of the Court be firſt had and obtained.

40th.

That no Plea in Abatement, no Special Plea, no Demurrer, be received, except the ſame ſhall be ſigned by an Advocate or the Party, if he employ no Advocate or Attorney: And that in every Demurrer, the ſpecial Cauſe thereof be clearly and diſtinctly expreſſed.

41ſt.

That no ſpecial Matter ſhall be given in Evidence, upon the General Iſſue, unleſs by Leave of the Court for that Purpoſe firſt had and obtained; and that they the Party who ſhall apply to this Court for ſuch Leave, ſhall give at leaſt Four Days previous Notice, in Writing, of ſuch his intended Motion, to the oppoſite Party, or his Attorney; and ſhall, in ſuch Notice, fully ſtate ſuch Matter as he intends to give in Evidence, at the Trial of the Cauſe.

42d.

That in all Cauſes commenced by Plaint in this Court, where the Defendant ſhall not put in his Plea, Rejoinder, or other Pleading, as the ſtate of the Cauſe may require, according to the Rules of this Court, or ſhall otherwiſe make Default after Appearance, or ſay nothing, or confeſs the Plaint, the Plaintiff may immediately enter a Rule with the Prothonotary, that this Cauſe may be heard ex parte; and the Prothonotary ſhall thereupon make up the Record, whereupon the Plaintiff may ſet down his Cauſe with the Clerk of the Papers for hearing accordingly, on the Day appointed for hearing ſuch Cauſes, which ſhall next happen after the Third Day from ſuch Want of Pleading, Default made, or Entry of Nil dicit, or Confeſſion of the Plaint; and that no Plea or Pleading whatſoever be received from or on Behalf of ſuch Defendant; and that ſuch Defendant, or any Advocate or Attorney, be not heard, or any Evidence admitted for him, at the Trial of ſuch Cauſe, unleſs ſuch Rule ſhall have been diſcharged in open Court, for good and ſufficient Cauſe, and on ſuch Terms as Juſtice ſhall require.

43d.

That if any dilatory Plea be delivered, without Affidavit firſt made before ſome Judge of this Court, of the Truth thereof, the Plaintiff may proceed in like Manner as where the Defendant ſhall have put in no Plea.

44th.

That the Prothonotary ſhall enter in a Book, to be kept by him for that Purpoſe, all ſuch Rules, except Rules for Pleading, as ſhall be made in Cauſes commencing by Plaint, and ſhall enter in another Book, to be kept for that Purpoſe, Minutes of every Motion, and of every Judgment pronounced in the ſame.

45th.

That if the Plaintiff take Iſſue on any Fact, in any Part of the Pleadings of the Defendant, he may immediately join the ſame; and wherever Iſſue is joined in any Cauſe, either in Fact, or in Law, the Clerk of the Papers ſhall deliver over all the Pleadings, Imparlances, Suggeſtions, and other Matters, which are to be entered on the Record to the Prothonotary, who ſhall thereupon immediately, if requeſted by the Plaintiff ſo to do, make up the Record; and the Plaintiff ſet down his Cauſe with the Clerk of the Papers, may proceed to Trial, giving ſuch Notice as by the Rules of this Court are required.

46th.

That the Party deſiring to have the Cauſe tried, or any ſpecial Argument heard therein, do enter the Name of the Cauſe in a Book to be kept by the Clerk of the Papers for that Purpoſe; and that no Cauſe ſhall be tried, or ſpecial Argument heard, until at leaſt Two Days ſhall have elapſed after ſuch Entry, and if the ſame ſhall be entered for any more early Day, the adverſe Party may enter a Ne recipiatur in the ſaid Book, and ſuch Cauſe or Argument ſhall not be heard on ſuch Day; and that before the Trial of any Iſſue joined on any Fact, Six Day's Notice in Writing ſhall be given, of the Day on which the ſame is to be tried on Behalf of the Plaintiff to the Defendant, or his Attorney, if ſuch Defendant or his Attorney ſhall reſide within the Town of Calcutta, or within Ten Miles thereof; and if ſuch Defendant ſhall not employ an Attorney in ſuch Cauſe, and ſhall reſide at a greater Diſtance than Ten Miles from Calcutta, then ſuch Notice of Trial ſhall be given as the Court, or one of the Judges thereof, ſhall ſpecially direct; and that where ſuch Notice ſhall be given and the Party on whoſe Behalf the ſame ſhall have been given, ſhall not proceed to Trial accordingly, and ſhall not, by a Notice in Writing ſerved on ſuch Party or his Attorney reſiding in the Town of Calcutta, or within Ten Miles thereof, Four Days before the Day mentioned for Trial, countermand, or on ſuch Party not employing an Attorney who ſhall reſide at a greater Diſtance from Calcutta, in ſuch Time as ſhall appear reaſonable to the Court, the Party in whoſe Behalf ſuch Notice of Trial ſhall have been given, ſhall be ſubject to pay ſuch Coſts to the oppoſite Party, as he ſhall have been put to thereby, unleſs he ſhall ſhew Cauſe, to be allowed in open Court, in Excuſe of ſuch Coſts; and the Party who ſhall have given ſuch Notice of Trial, and ſhall not have proceeded as aforeſaid, ſhall not proceed to Trial on any future Day appointed for the Hearing of ſuch Cauſes, unleſs he ſhall have again given ſuch Notice of Trial as is before required: But if any Party who ſhall have given due Notice of Trial as aforeſaid, ſhall have been prevented from entering his Cauſe, by the oppoſite Party having entered a Ne recipiatur, or for any other Cauſe ſhall not have proceeded to Trial, and ſhall on the Day of Trial mentioned in ſuch Notice on which the Cauſe might have been ſet down, had no Ne recipiatur been entered, any Time before the Riſing of the Court, deliver Notice in Writing, that he will proceed to Trial at the next Day appointed for Trial of ſuch Cauſes, ſuch Party ſhall be at Liberty to go to Trial on ſuch laſt-mentioned Day, any thing herein before ordered to the contrary notwithſtanding.

47th.

That the Clerk of the Papers do enter in his Book the Cauſes which ſhall be ſet down for Argument, Hearing, or Trial, immediately on the Application of the Parties or their Attornies, according to the Priority of ſuch Application; and that a Liſt of the ſame be made out by the ſaid Clerk, in the Order in which the ſame ſhall be entered in his Book; and that the ſaid Liſt be fixed up openly in Court before the Trial or Hearing of ſuch Cauſes; and that the ſame be called on, heard, and tried in ſuch Order (except the Court ſhall make other Rule or Order therein) or that the Party demurring, on bringing a Writ of Error, or his Attorney, do deliver to the Clerk of the Chief Juſtice, and of every Juſtice of this Court, a Paper whereon ſhall be wrote the particular Cauſe of Demurrer, or the particular Error the Party means to rely on, at leaſt Two Days before the Hearing of the Agreements on the ſame; and that the Party be heard to no other Matter than ſuch as ſhall be expreſſed in the Papers ſo delivered.

48th.

That in all Cauſes, and all other Buſineſs in this Court, the Party himſelf may be heard; and that where an Advocate can be procured, no Party ſhall be heard in this Court by his Attorney, but that where the Party can procure no Advocate, his Attorney may be heard on his Behalf, and may do all and every Act which by the Rules of this Court are or may be required to be done by an Advocate; and that the Party or the Attorney who ſhall be heard, do in all Things conform to the Rules laid down for the Conduct of Advocates.

49th.

That in every Cauſe commenced by Plaint in this Court, between the Parties where any Iſſue or Iſſues be joined on any Fact, the Advocate ſhall proceed at the Trial in the Manner following: If One Iſſue only be joined, or ſeveral Iſſues, and the affirmative Part of ſuch Iſſue or Iſſues lye on the ſame Party, then the Advocate or Advocates of ſuch Party ſhall begin; and where there be more Iſſues than One, and all the affirmative Parts of the Iſſue do not lye on the ſame Party, the Advocate or Advocates of ſuch Party on whom the affirmative Part of the Firſt Iſſue ſhall lie (except ſuch Iſſue or Iſſues ſhall be given up) ſhall begin; and if ſuch Iſſue ſhall be given up, then the Advocate or Advocates on whoſe Side the affirmative Part of the Firſt Iſſue not given up, ſhall lye, ſhall begin; and in this Order, One Advocate ſhall ſhortly ſtate the Pleadings, point out the Iſſues to the Court which are to be tried, and (another Advocate, if there be more Advocates than One) ſtate the Merits of his Caſe, and the Evidence which he means to produce on ſuch Iſſue or Iſſues, as is or are incumbent on him to affirm, and ſhall proceed to call and produce ſuch Witneſſes and Evidences; and immediately after ſuch Evidence as aforeſaid ſhall have been given, One Advocate on the oppoſite Side may obſerve on the Merits of the Cauſe ſo ſtated, and the Evidence ſo given; and in like Manner, ſtate the Merits of his Cauſe, and ſtate, call, and produce his Witneſſes and Evidence, to infirm ſuch Iſſue or Iſſues, and may, if the affirmative Part of any Iſſue or Iſſues lye on him, proceed in the ſame Manner to ſupport ſuch Iſſue or Iſſues as is preſcribed for the Conduct of the Advocate who ſhall begin; and if there be but One Iſſue, or the affirmative Part of the Iſſues, where there are more than One, lye on the Side of the laſt-mentioned Advocate, then One Advocate on the Side which began, ſhall reply immediately; but if the Advocate of the oppoſite Party ſhall have adduced any Evidence in Support of any Iſſue or Iſſues, then, before his Reply, he ſhall call his Evidence to infirm any ſuch Iſſue or Iſſues, and ſhall then reply; and ſuch Advocate may, in ſuch Reply, obſerve on the Merits ſtated by the oppoſite Advocate, and all the Evidence given in the Cauſe; but if any Matters of Law ſhall ariſe during ſuch Trial, the Advocates propoſing the ſame ſhall be heard thereto; after which, the Advocates on the oppoſite Side ſhall be heard, and the Advocate only on the Side which propoſed the ſame ſhall reply; and no Advocate ſhall be allowed to obſerve on any Evidence produced in any Cauſe, or heard in any Matter of Law, at the Trial of any Cauſe in other Manner than is before mentioned, and but One Advocate be heard in Reply, except in extraordinary Caſes, and by ſpecial Indulgence of the Court: And that on a ſpecial Argument, but One Advocate on a Side ſhall be heard; and in this Order the Advocate who is to affirm the Matter in Queſtion, ſhall begin, to which the oppoſite Advocate ſhall anſwer, and he who began ſhall reply, and the Court (except another Argument be directed) ſhall proceed to determine thereon; and that on ſhewing Cauſe on every Rule Niſi, the Rule of Court, and the Affidavit and other Evidence on which the ſame was granted, ſhall be read by the Clerk of the Papers; whereupon an Advocate for the Party on whom ſuch Rule ſhall have been made, ſhall open to the Court the Cauſe to be ſhewn for diſcharging ſuch a Rule; then the Affidavit, or other Matters adduced on that Behalf, ſhall be read, and the other Advocates againſt the Rule ſhall be heard; and after them the Advocate or Advocates in Support of the Rule, but ſhall not be at Liberty to read any new Affidavit, or give any other new Matter in Evidence to the Court, except the ſame ſhall be merely in Explanation or Confirmation of the Affidavits, or other Evidence, on which the Rule was granted; whereupon the Court ſhall proceed to do Juſtice on the Motion; but in all Caſes where any Advocate ſhall, in his Reply, or in Support of any Rule Niſi, on ſhewing Cauſe, cite out of any Law Book any Authority not before cited, One Advocate ſhall be further heard to anſwer ſuch Authority, any thing before ordered to the contrary notwithſtanding; to whom no Reply ſhall be made.—That on every Trial the Clerk of the Papers ſhall read the Record, and every Exhibit produced in the Cauſe, and ſhall ſign the ſame with his Name, and mark thereon the Name of the Party for whom they were adduced; and the Clerk of the Papers reduce into Writing, in open Court, from the Mouth of each Witneſs, ſuch Matter as he ſhall depoſe relative to the Iſſue or Iſſues to be tried; and after the Court hath reviſed the ſame, ſuch Depoſitions ſhall be read to the Witneſs, who ſhall immediately ſubſcribe the ſame, with his Name or other Mark; and the ſaid Clerk ſhall ſign his Name to every Depoſition, and mark thereon the Name of the Party for whom the ſame was given, and ſhall detain the ſame in his Cuſtody until the Court ſhall have given Judgment in the Cauſe; and where the Court ſhall, on account of Debt or Damages, excluſive of Coſts, give a Sum not exceeding One thouſand Pagodas, the ſaid Clerk ſhall immediately deliver over ſuch Depoſitions to the Prothonotary, to be filed of Record; and if the Court ſhall, by their Judgements on account of Debt or Damages, give a Sum exceeding One thouſand Pagodas, then the ſaid Clerk ſhall mark ſuch Depoſition with the Day and Year on which the Judgement ſhall be given, and keep the ſame in his Cuſtody until the Expiration of Six Months from the Day of pronouncing ſuch Judgment; and if there be no Appeal within the Six Months, ſhall deliver over the ſame to the ſaid Prothonotary; and if any Appeal ſhall be allowed, ſhall detain the ſame in his Cuſtody, until the Appeal ſhall be withdrawn or finally determined, and ſhall then deliver the ſame to the Prothonotary, who ſhall file of Record, and deliver over to the Keeper of the Records and Muniments of the Court, all the Depoſitions in the Cauſe, together with the Record, at the Times limited by the Rules of the Court; and the ſaid Clerk of the Papers ſhall detain in his Cuſtody every ſuch Exhibit until the Court ſhall have given Judgment in the Cauſe: And in every Caſe where the Court ſhall, by their Judgment on account of Debt or Damages, excluſive of Coſts, give a Sum not exceeding One thouſand Pagodas, the ſaid Clerk ſhall deliver back ſuch Exhibit to the Party or Parties who produced the ſame; and if the Court ſhall, by their Judgment on account of Debt or Damages, excluſive of Coſts, give a Sum exceeding One thouſand Pagodas, then the ſaid Clerk ſhall mark on each Exhibit the Day of the Month and Year on which the Judgment, Decree, or Decretal Order was pronounced, and keep the ſame in his Cuſtody until the Expiration of Six Months from the Day of pronouncing ſuch Judgment, Decree, or Decretal Order; and if there be no Appeal within the ſaid Months, then the ſaid Clerk may and ſhall deliver the ſame to the Party who produced the ſame at the Trial; but the ſaid Clerk before the Expiration of the ſaid Six Months, or after, if any Appeal ſhall be entered in the ſaid Cauſe, until ſuch Appeal ſhall be withdrawn or determined, ſhall not deliver up any ſuch Exhibit, unleſs by Order of the Court, or a Judge thereof, and unleſs Two true and exact Copies, ſigned by and with the Name of the ſaid Clerk, One for the Uſe of the Appellant, and the other to be filed with the Depoſition, ſhall be taken of the ſame; which Copies ſhall be paid for to the ſaid Clerk by the Party applying for the ſaid Exhibit; and if the Party who ſhall have applied for the ſame ſhall be other than the Appellant, the ſaid Clerk ſhall not deliver either of the ſaid Copies ſo taken, or any other Copy of ſuch Exhibit or Exhibits, unto the Appellant, until the ſaid Appellant ſhall have depoſited in the Hands of ſuch Clerk, to the Uſe of the Party having paid for ſuch Copies, ſuch Sum as the other Party ſhall have paid to the ſaid Clerk for ſuch Copies, which Sum he ſhall repay to ſuch laſt mentioned Party on Demand.

50th.

That after the Trial of every Iſſue joined on Matter of Fact between the Parties, the Plaintiff or

Defendant be at Liberty to move for a new Trial, or in Arreſt of Judgment within Four Days after ſuch Trial; and the Party for whom the Opinion of the Court ſhall have been given, may enter a Rule with the Prothonotary to ſign the Judgment on the Fourth Day after ſuch Trial; and that no Judgment on ſuch Trial be ſigned by the Prothonotary until the Expiration of ſuch Rule, but on the Expiration thereof, if the Court ſhall not have otherwiſe ordered, the Prothonotary ſhall, on the Application of the Party or his Attorney, enter the Judgment on the Roll, or an Incipitur thereof, and ſign the ſame, and ſhall thereupon iſſue ſuch Writ or Writs of Execution as may be neceſſary to inforce ſuch Judgment; and the Prothonotary ſhall, after entering of every Judgment given in the Court, immediately docket the ſame in a Book to be kept by him for that Purpoſe, by entering the Names of the Plaintiff and Defendant, and their Attornies, and the Debt and Damages recovered, or Coſts, if the Judgment be againſt the Plaintiff, with the Term and Number of the Roll whereon the ſaid Judgment ſhall have been entered, and ſhall likewiſe keep an alphabetical Liſt referring to ſuch Docket, of the Name of all Parties againſt whom Judgment ſhall have been given, that Imparlances be duly entered on the Roll before any Iſſues, Demurrers, or Judgments be entered thereon; provided, that where any Defendant is entitled to put in his Plea in abatement, Plea of Tender, or other Plea, in which he alledges that he was always ready on the Continuance Day after an Imparlance, that ſuch Plea be entered on the Record as of the preceeding Term, and the Imparlance be not entered thereon, and that no Entry be made on the Rolls but by the Prothonotary or his Clerks, and that the ſame be in a ſtrong fair Hand, with a long Margin of an Inch at leaſt, and a convenient Diſtance at the Top for binding up the ſame, and at the Bottom, that the Writing be not rubbed out or defaced.

51ſt.

That the Record be entered on a Roll of that Term on which the Plaint was filed, and bear a Caption, ſetting forth the Year of Our Sovereign Lord the King, His Heirs or Succeſſors, and His or their Stile and Title, and if the Pleas were held before the Chief Juſtice for the Time being (naming him) and his Companions, Juſtices of Our Sovereign Lord the King, of the Supreme Court of Judicature, at Fort William in Bengal, and naming the Term and Year of our Lord Chriſt in which the ſame were held, and that each Roll be marked at the Bottom with the Number thereof, and that there be marked in the Margin, the Day of the Month and Year on which any Judgment ſhall be marked on the Roll, together with the Name of the Attorney of the Party on whoſe Behalf the ſame is entered.

52d.

That before the entering up any Judgment where any Coſts ſo awarded ſhall be taxed by the Maſter who ſhall give a Certificate thereof, and thereupon ſuch Coſts, and no more, ſhall be added to the Debt or Damages awarded by the Judgment.

53d.

It is ordered, that if any Perſon ſhall be arreſted by any Writ or Proceſs iſſuing out of this Court, at the Suit of any common Perſon, and the Sheriff or other Officer taketh Bail for ſuch Perſon againſt whom ſuch Writ or Proceſs is taken out, the Sheriff or other Officer, at the Requeſt and Coſts of the Plaintiff in ſuch Action or Suit, or his lawful Attorney, ſhall indorſe, on the Bail Bond or other Security taken from ſuch Bail, a Conſent in Writing, that the Plaintiff in ſuch Caſe may ſue and recover the ſame in the Name of the ſaid Sheriff or other Officer to the Uſe of the ſaid Plaintiff, and the ſaid Sheriff or other Officer ſhall alſo atteſt the ſaid Conſent under his Hand and Seal, in the Preſence of Two or more credible Writers; and if the ſaid Bail Bond, or other Security taken for Bail, be forfeited, the Plaintiff in ſuch Action, after ſuch Conſent had, may file a Plaint in this Court, in the Name of the ſaid Sheriff or other Officer, and proſecute the ſame for his own Uſe; and the ſaid Sheriff or other Officer ſhall not releaſe the ſaid Bond, or do any other Act whatſoever, to prevent the Plaintiff from recovering in the ſaid Plaint; and the ſaid Bond and Action ſhall be ſubject to ſuch Rule or Rules of this Court as ſhall be made for ſuch Relief to the Plaintiff and Defendant in the original Action, and to the Bail upon the ſaid Bond or other Security, taken from ſuch Bail as is agreeable to Juſtice and Reaſon, and ſuch Rule or Rules ſhall have the Nature and Effect of a Defeazance to ſuch Bond, or other Security taken from ſuch Bail.

54th.

It is ordered, that where any Inhabitant of India (not ſubject to the Juriſdiction of this Court) ſhall offer to become Surety to the Sheriff for any Defendant or Defendants, arreſted in any Suit or Action commenced in this Court, or for any Plaintiffs in Replevin, the Sheriff ſhall not accept of ſuch Surety, unleſs he will agree that the Penalty of the Bond ſhall be taken in a Sum exceeding Five hundred Current Rupees, and that in ſuch Obligation there ſhall be inſerted an Agreement, that the Penal Sum mentioned therein, when forfeited, may be ſued for and recovered in this Court: And it is further ordered, that where any Perſon (not ſubject to the Juriſdiction of this Court) ſhall enter into any Recognizance in this Court, or give any Bond or other Security, either by Direction of this Court, or to any Judge or Officer thereof, acting in his Office, the ſame ſhall be taken in a Sum exceeding Five hundred Current Rupees, and the Officer or Clerk who ſhall take ſuch Recognizance, Bond, or other Security, ſhall demand of the Perſon entering into or giving the ſame, his Conſent that the ſaid Recognizance, Bond, or other Security, if there ſhall at any Time be juſt Cauſe to put the ſame in Suit, may be proſecuted in this Court, and ſhall immediately, and in his Preſence, reduce ſuch his Conſent into Writing.

55th.

That where any Defendant ſhall be arreſted by virtue of any Proceſs directed out of this Court, in which a Clauſe ſhall be inſerted, authorizing the Sheriff to take Bail, and ſuch Defendant ſhall have entered into a Bail Bond to the Sheriff, no Proceedings ſhall be had on the ſaid Bond at the Suit of the Plaintiff, until Four Days after the Return of the ſaid Proceſs; and that ſuch Defendant ſhall, within Four Days after the Return of ſuch Proceſs, put in Bail before a Judge of this Court, and ſhall immediately give Notice to the Plaintiff, or his Attorney, that he had put in Bail, and before what Judge, and alſo of the Names, Additions, and Places of Abode of ſuch Bail; and ſhall alſo enter in a Book, to be kept for that Purpoſe by the Clerk of the Judge before whom the ſaid Bail ſhall have been put, in the Names of Defendant and his Bail, and of the Plaintiff, as they ſhall be in the Bail Piece, and the Name of the Attorney for the Defendant, if the Defendant ſhall employ an Attorney; and if the Plaintiff be ſatisfied with ſuch Bail, he ſhall make an Entry in the ſaid Book that he is ſatisfied; and if the Plaintiff be not ſatisfied with ſuch Bail, then the ſaid Plaintiff, or his Attorney, ſhall, within Twelve Days after ſuch Bail has been put in, enter an Exception in the ſaid Book to ſuch Bail, and ſhall immediately give Notice to the Defendant, or his Attorney, that he has excepted to the Bail; and the ſaid Bail ſhall in ſuch Caſe, if it ſhall be in Term, or in Vacation if there be not then more than Three Days before Term, within Four Days after ſuch Exception and Notice, and if at any other Time in Vacation, on the Firſt Day of the next Term, juſtify themſelves in open Court, or by Conſent of the Plaintiff or his Attorney, at any Time, before the Judge before whom ſuch Bail ſhall have been put in, by taking their Oath that they are Houſekeepers, and are reſpectively worth the Sum for which they are Bail, after all their Debts paid, and excluſive of all Demands due from them to any Perſon or Perſons whatſoever; and if ſuch Bail, or either of them, do not juſtify themſelves within the Time herein preſcribed for the ſame, then the ſaid Defendant ſhall put in other Bail, who will juſtify within ſuch Time, and in ſuch Manner as is before required, in the room of ſuch Perſon or Perſons before put in as Bail, that the Defendant, or his Attorney, do, in every Caſe, give Notice in Writing to the Plaintiff, or his Attorney, Two Days before ſuch Bail ſhall juſtify, on what Day the Bail will juſtify; and that in all Caſes where the Bail intended to be put in, or either of them, are other than the Bail originally put in before a Judge, he do likewiſe give Notice to the Plaintiff, or his Attorney, of the Names, Additions, and Places of Abode of ſuch Perſon or Perſons ſo offering themſelves to be Bail, and on what Day they will juſtify, at leaſt Three Days before that Day; and if ſuch Perſons ſhall juſtify themſelves to the Satisfaction of the Court, or of the Judge before whom the ſame ſhall be put in (then if in Court) the Bail Piece ſhall be immediately ſigned and filed by the Prothonotary; and if ſuch Plaintiff or his Attorney, after ſuch Notice given to him or his Attorney, of Bail having been put in as is before required, in ſuch Caſe, and within Twelve Days after the Entry of ſuch Bail, ſhall not enter an Exception in the ſaid Book, then no Exception afterwards made to the ſaid Bail ſhall be of any Force or Effect; that every Bail Piece taken and acknowledged in this Court, or before any Judge thereof, ſhall be fairly drawn, and ingroſſed on Parchment, in the Form following:

“ Fort William, } Capias againſt A. B. late of Calcutta, at Fort William aforeſaid, at the
“ in Bengal, } Suit of C. D. for C. R^{s} 1,000, upon Promiſe returnable on
“ Day of
“ Affidavit, C. R^{s} 500.
“ Bail, E. F. of Calcutta aforeſaid, Eſquire, } each in 500 C. R^{s},
“ G. H. of the ſame Place, Carpenter, }
“ Taken and acknowledged, the
“ Day of, &c.
“ before me, J. K.
“ (or by the Court.) Attorney for the Defendant.”

And if ſuch Bail-piece be taken and acknowledged in open Court, then the Prothonotary ſhall ſubſcribe at the Bottom thereof, the Day of the Month when taken, and thoſe Words, “ By the Court;” and if the Bail Piece be taken and acknowledged before the Chief Juſtice, or other Juſtice out of Court, the Day of the Month ſhall be ſubſcribed at the Bottom thereof, as alſo thoſe Words, “ Taken and acknowledged before me;” and the Chief Juſtice, or other Juſtice, ſhall ſign his Name thereto: And that in taking all Recognizances from Bail to the Action, thoſe, or Words to the like Effect, be uſed:

> “ You” [calling the Bail by their Names] “ do jointly and ſeverally undertake, that if the
> “ Defendant” [naming his Name] “ ſhall be condemned in this Action, at the Suit of
> “ the ſaid Plaintiff” [naming his Name] “ he ſhall ſatisfy the Coſts and Condemnation, or
> “ render himſelf into the Cuſtody of the Sheriff, or you will pay the Coſts and Condemnation
> “ Money for him.”

And the Defendant, or his Attorney, ſhall depoſit in the Hands of the Clerk of the Judge before whom any Bail ſhall be put in, the Fee due to the Prothonotary for filing the Bail-Piece; and in caſe the Plaintiff, or his Attorney, make an Entry in the ſaid Book, that he is ſatisfied with the Bail, or ſhall not have entered any Exception thereto within Twelve Days, and Affidavit be made of the Service of Notice of Bail as is before required; or if the Bail ſhall have juſtified before a Judge of this Court as aforeſaid, the Clerk of ſuch Judge ſhall immediately deliver the Bail-piece to the Prothonotary, who ſhall immediately ſign and file the ſame; and in caſe ſuch Bail ſhall juſtify themſelves in open Court, ſuch Clerk ſhall, before the Day of ſuch Juſtification, deliver the Bail-Piece to the Prothonotary; and the ſaid Clerk ſhall, at the Time he ſhall deliver the Bail Piece, pay the ſaid Prothonotary the Fee aforeſaid: That in all Caſes where the Bail-Piece ſhall have been ſigned and filed, the Plaintiff, or his Attorney, may enter a Rule with the Clerk of the Papers, for the Defendant to plead; and the Defendant ſhall, within Four Days after the Service of ſuch Rule, plead accordingly, or may enter a Rule with the ſaid Clerk de bene eſſe, to plead before ſuch Bail Piece be filed; and ſuch Defendant ſhall, if ſerved therewith Four Days before filing the ſaid Bail Piece, plead on the Day on which the ſame ſhall be filed, and if not ſerved Four Days before the filing thereof, then within Four Days of the Service of ſuch laſt mentioned Rule: That when any Defendant ſo arreſted as aforeſaid, ſhall not have given a Bail Bond as aforeſaid, and ſhall be in Cuſtody therefore, he ſhall not be delivered to Bail, unleſs he ſhall enter the Names of ſuch Perſons as he propoſes to put in as Bail, together with their Additions and Places of Abode, and the Day on which ſuch Bail are to be put in, at leaſt Twelve Days before the Day mentioned for putting in the ſame, unleſs the Court, or a Judge thereof, make other Order therein, ſuch Defendant ſhall give immediate Notice in Writing to the Plaintiff, or his Attorney, of ſuch Entry, and the Names, Additions, and Places of Abode, of ſuch Perſons ſo intended to be put in.

56th.

That no Habeas Corpus to bring up ſuch Priſoner to be bailed, be granted until Affidavit made of the due Service of ſuch Notice on the Plaintiff or his Attorney; and that the ſame Rule and Order be taken as to Preceedings in Relation to ſuch Bail, as is before directed, in Caſe where Bail Bond has been given to the Sheriff.

57th.

That the Prothonotary do keep a Book, in which they ſhall enter, immediately after the filing of every Bail Piece, the Names of the Parties to the Cauſe, and of the Bail, and the Name of the Defendant's Attorney, and the Term in which the ſaid Bail were taken; and that all Bail taken in Vacation ſhall be entered as of the preceding Term.

58th.

That no Advocate, Attorney, or Officer of this Court, or Sheriff or his Deputy, or any Sheriff's Officer, be Bail to any Action in this Court.

59th.

That where the Plaintiff ſhall recover a greater Sum than is marked at the Bottom of the Proceſs by which the Defendant was held to Bail, the Bail ſhall not be diſcharged, but ſhall be liable for ſo much as is ſo marked in the ſaid Proceſs, or for any leſſer Sum which the Plaintiff in ſuch Action ſhall recover.

60th.

That where any Defendant ſhall be ſurrendered by his Bail, to be committed to the Cuſtody of the Sheriff, ſuch Bail ſhall cauſe an Exoneretur to be entered on the Bail Piece by the Prothonotary, and ſuch Bail ſhall be thereupon diſcharged: That no Scire Facias iſſue againſt any Bail, unleſs the Capias ad Satisfaciendum which ſhall have iſſued againſt the Defendant have at leaſt Eight Days between the Teſte and Return thereof, and that the Teſte of ſuch Scire Facias be not before the Return of the Capias ad Satisfaciendum.

61ſt.

That no Judgment be given on a Scire Facias againſt Bail, except there ſhall be at leaſt Fifteen Days between the Teſte and Return thereof, and that no Judgment be entered by Default againſt Bail, unleſs the Sheriff ſhall have returned the ſaid Scire Facias Nihil, or having returned Scire Facias, ſuch Bail ſhall not appear and plead on the Return Day thereof; and the Sheriff is hereby required, on the Receipt of ſuch Scire Facias, to execute the ſame with Speed and Diligence, and to make a true Return thereof, and that the ſaid Bail be at Liberty to ſurrender the Defendant before the Return Day of the ſaid Scire Facias, or if the Court be ſitting on the Return Day any Time before the Riſing of the Court, in diſcharge of the Recognizance; and that no Plaint of Debt be brought againſt Bail upon their Recognizance, unleſs there be Eight Days between the Teſte and Return of the Capias ad Satisfaciendum againſt the Defendant; and that the Writ of Summons iſſued on ſuch Plaint, ſhall not bear Teſte before the Return of ſuch Capias ad Satisfaciendum, and ſhall have the ſame Time between Teſte and Return thereof, as is before required in the Caſe of a Scire Facias, and the Bail ſhall be at Liberty to ſurrender the Defendant in diſcharge of their Recognizance, at ſuch Time as is allowed in a Caſe of Scire Facias.

62d.

That the Prothonotary do keep a ſeparate Book for the Purpoſe of entering therein all Surrenders in diſcharge of Bail, and the Commitments of Defendants ſo ſurrendered, and of all Perſons committed on the Plea Side of this Court, with a Memorandum of the Cauſe of ſuch Commitment and the Name of the Suit, if ſuch Commitment be on account of any Matter ariſing in a Cauſe; and alſo an Alphabetical Liſt of the Names of the Perſons ſo committed, referring to ſuch Memorandums: And that the Clerk of the Crown Office, and the ſeveral Regiſters of the Court, do in like Manner ſeverally keep a Book, and make the like Entries and Liſt relative to all Commitments in their reſpective Departments.

63d.

That where Plaint ſhall be filed againſt any Perſon who ſhall be in Cuſtody at the Time of filing the ſame, and ſhall have had Four Days Notice thereof, or being arreſted, ſhall be committed for want of Bail, and ſhall not have filed an Appearance, the Plaintiff may file an Appearance with the Prothonotary for ſuch Defendant, then ſerve ſuch Defendant with ſuch Rules for Pleading, and all other Rules and Notices which the ſaid Plaintiff would have been intitled to have ſerved on him if the ſaid Defendant had himſelf filed the Appearance; and the ſaid Defendant ſhall plead and take Notice of the ſame accordingly, and ſhall be anſwerable in the ſame Manner for all Defaults by him committed as Defendant who ſhall have filed Appearances on any Summons; and the Service of all Rules, Notices, and Proceſs whatſoever, on the Gaoler or Turnkey of the Gaol where ſuch Defendant ſhall be impriſoned, ſhall be deemed good Service on all Defendants who ſhall be in Cuſtody, and that every Gaoler, Turnkey, or other Perſon who ſhall have the Charge and Cuſtody of ſuch Defendant, do immediately upon the Receipt of ſuch Rule, Order, or Proceſs, deliver the ſame to ſuch Defendant, upon Pain of exemplary Puniſhment for their Contempt, if they ſhall neglect therein.

64th.

That if the Plaintiff ſhall, at any Time before Iſſue joined, neglect to proceed in his Cauſe Two Terms after the laſt Pleading put in by the Defendant, the Defendant may enter a Non Pros with the Prothonotary, againſt the Plaintiff; and ſuch Coſts ſhall be awarded to him as to the Court ſhall ſeem reaſonable.

65th.

And that where any Defendant ſhall be in Cuſtody at the Suit of any Plaintiff, and the Defendant ſhall have pleaded therein, and ſuch Plaintiff ſhall neglect to proceed in his Cauſe againſt the ſaid Defendant for One whole Term, the Defendant ſhall have given Four Days Notice to the Plaintiff, or his Attorney, of his intended Motion, be, on Motion made in Court on the laſt Day of the Term in which Plaintiff has been ſo negligent, diſcharged from the Cuſtody of the Sheriff as to that Suit, upon filing common Bail, or in Vacation after the ſaid Term, on Application to the Chief Juſtice, or any other Judge of this Court, the like Notice having been given to the ſaid Plaintiff or his Attorney; and if he be diſcharged in open Court, then the Order of the Court for filing ſuch common Bail, atteſted by the Prothonotary; and if diſcharged by a Judge out of Court, the common Bail Piece, ſigned by ſuch Judge, ſhall be ſufficient Authority to the Sheriff to ſet ſuch Priſoner at Liberty with regard to that Suit.

66th.

That where any Iſſue ſhall be joined in any Action in this Court, and the Plaintiff ſhall neglect to bring ſuch Iſſue on to be tried within the next Term after ſuch Iſſue ſhall have been joined, upon Motion being made in open Court, due Notice having been given thereof, the Court ſhall give the like Judgment for the Defendant, as in Caſe of a Nonſuit, unleſs the Court ſhall, upon juſt Cauſe, and reaſonable Terms, allow any further Time or Times for the Trial of ſuch Iſſue: And if the Plaintiff ſhall neglect to try ſuch Iſſue within the Time or Times ſo allowed, then and in every ſuch Caſe the Court ſhall proceed to give ſuch Judgment as aforeſaid; and ſuch Judgment ſhall be of the like Force and Effect as Judgment upon Nonſuit, and of no other Force or Effect; and the Defendant ſhall upon ſuch Judgment be awarded his Coſts, at the Diſcretion of the Court.

67th.

That no Judgment upon any Warrant of Attorney to confeſs Judgment, be entered after a Year and a Day from the granting each Warrant of Attorney, without Affidavit having been made, to the Satisfaction of the Court, that the Perſon granting ſuch Warrant of Attorney is alive.

GENERAL APPENDIX, N° 2.

68th.

That no Warrant of Attorney to acknowledge a Judgment, be taken from any Perſon being in Cuſtody by Arreſt, but in the Preſence of an Attorney for ſuch Perſon, which Attorney ſhall then ſubſcribe his Name thereunto; and ſuch Warrant ſhall be produced when ſuch Judgment ſhall be acknowledged, and be filed of Record by the Prothonotary; and that no Attorney ſhall acknowledge, or cauſe to be acknowledged or entered, any Judgment by Colour of any Warrant gotten from any Defendant when under Arreſt, otherwiſe than as aforeſaid.

69th.

That no Execution be ſued out upon any Judgment after the Year and Day, unleſs a Ceſſat Executis be entered on the Roll, or an Appeal ſhall have been lodged, without ſuing out a Scire Facias againſt the Party whom Judgment ſhall have been given againſt; and that after Six Years no ſuch Scire Facias iſſue without the Leave of the Court.

70th.

That every Perſon or Perſons who now are, or who ſhall hereafter be charged in Execution by virtue of any Writ or Proceſs heretofore iſſued, from the late Mayor's Court at Calcutta, or by virtue of any Writ or Proceſs iſſuing out of this Court, for any Sum or Sums of Money, not exceeding One thouſand Two hundred Current Rupees, and ſhall be minded to give up to his, her, or their Creditor or Creditors who has charged, or who ſhall ſo charge him, her, or them in Execution, all his, her, or their Eſtate and Effects, for or towards the Satisfaction of the Debt or Debts wherewith he, ſhe, or they ſhall ſo ſtand charged; it ſhall and may be lawful for any ſuch Priſoner to exhibit a Petition to Court, or to any Judge thereof, certifying the Cauſe or Cauſes of his, her, or their Impriſonment; and not only ſetting forth in every ſuch Petition, a juſt and true Account of all the real and perſonal Eſtate which he, ſhe, or they ſo petitioning, or any Perſon or Perſons in Truſt for him, her, or them, is, was, or were intitled to at the Time of his, her, or their ſo petitioning, and all Incumbrances and Charges (if any there be) affecting any ſuch real or perſonal Eſtate, which any ſuch Priſoner or Priſoners, or any Perſon or Perſons in Truſt for him, her, or them, or for his, her, or their Uſe, was or were intruſted in, or entitled to, at the Time of his, her, or their firſt Impriſonment in the Action in which ſuch Perſon is charged in Execution, either in Poſſeſſion, Reverſion, Remainder, or Expectancy, to the beſt of the Belief of every ſuch Priſoner or Priſoners; and ſo far as his, her, or their reſpective Knowledge extend concerning the ſame, and likewiſe a juſt and true Account of all Securities wherein any Part of the Eſtates of any ſuch Priſoner or Priſoners conſiſts, and of all the Deeds, Evidences, Writings, Books, Bonds, Notes, and Papers concerning the ſame, or relating thereto, and the Names and Places of Abode of the Witneſſes to ſuch Securities, Bonds, or Notes, and where they are to be reſpectively met with, ſo far as her or their Knowledge extends concerning the ſame; of which ſaid Petition Fourteen Days Notice in Writing ſhall be given to every the Creditor or Creditors, at whoſe Suit every ſuch Priſoner or Priſoners ſtands charged, or ſhall ſtand charged in Execution as aforeſaid, or his, her, or their Executors or Adminiſtrators, and at his, her, or their uſual Place of Abode; or to his, her, or their Attorney or Agent laſt employed in any ſuch Action, Suit, or Cauſe, in caſe any ſuch Creditor or Creditors, his, her, or their Executors or Adminiſtrators cannot be met with, but not otherwiſe; and an Affidavit of the due Service of every ſuch Notice ſhall be delivered with every ſuch Petition, at the Time of preſenting thereof, and openly read in Court, or before ſuch Judge at his Chambers; and if the Court, or ſuch Judge, ſhall thereupon be ſatisfied of the Regularity of every ſuch Notice, ſuch Petition ſhall be received, and ſhall and will by Order or Rule to be thereupon made, cauſe the Priſoner or Priſoners who ſhall ſo petition, to be brought up to Court, or before ſuch Judge thereof, on ſome certain Day in ſuch Order or Rule to be ſpecified; and the Creditors, or ſeveral Creditors at whoſe Suit any ſuch Priſoner or Priſoners ſhall ſtand charged in Execution as aforeſaid, his, her, or their Executors or Adminiſtrators, to be ſummoned to appear perſonally, or by his, her, or their Attorney in this Court, or before ſuch Judge thereof, at ſome certain Day to be ſpecified in ſuch Rule or Order for that Purpoſe; and the Condition or ſeveral Creditors at whoſe Suit any ſuch Priſoner or Priſoners now ſtand charged, or ſhall ſtand charged in Execution as aforeſaid, his, her, or their Executors or Adminiſtatrors, to be ſummoned to appear perſonally, or by his, her, or their Attorney; or if any ſuch Creditor or Creditors, his, her, or their Executors or Adminiſtrators, ſhall refuſe or neglect to appear in Perſon, or by his, her, or their Attorney, then upon Affidavit of the due Service of ſuch Rule or Order on him, her, or them, or his, her, or their Attorney, if any ſuch Creditor or Creditors, his, her, or their Executors or Adminiſtrators, cannot be met with, this Court, or ſuch Judge, ſhall and will, in a ſummary Way, examine into the Matter of every ſuch Petition, and hear what can or ſhall be alledged on either Side, for or againſt the Diſcharge of any ſuch Priſoner or Priſoners who ſhall ſo petition; and upon ſuch Examination, every ſuch Priſoner or Priſoners reſpectively profeſſing the Chriſtian Religion, and not being a Quaker, who ſhall ſo petition, ſhall take and ſubſcribe an Oath to the Effect following; that is to ſay:

> " I A. B. do ſwear, in the Preſence of Almighty God, That the Account by me ſet forth " in my Petition preſented to this Honourable Court, doth contain a full and true Ac-

“ count of the Real and Perſonal Eſtate, Debts, Credits, and Effects whatſoever, which I, or any in Truſt for me, at the Time of my Firſt Impriſonment in this Action, or at any Time ſince, had or was in any Reſpect entitled to, in Poſſeſſion, Reverſion, or Remainder, except the Wearing Apparel and Bedding of or for me and my Family, and the Tools or Inſtruments of my Trade or Calling, not exceeding Ten Pounds in Value in the Whole; and alſo an Account how much of my Real and Perſonal Eſtate, Debts, Credits, or Effects, hath ſince been diſpoſed of, releaſed, or diſcharged; and how, to whom, and on what Conſideration, and for what Purpoſe, and how much thereof, I, or any Perſon or Perſons in Truſt for me, have, or at the Time of my preſenting my ſaid Petition to this Honourable Court had, or which or was, or any Perſon in Truſt for me, or for my Uſe, is anyways intereſted in, or entitled to, in Poſſeſſion, Reverſion, Remainder, or Expectancy; and alſo a true Account of all Deeds, Writings, Books, Papers, Securities, Bonds, and Notes relating thereto, and where the ſame reſpectively now are, to the beſt of my Knowledge and Belief, and what Charges are now affecting the Real Eſtate I am now ſeiſed of, or entitled to” [if any ſuch Priſoner or Priſoners ſhall be then ſeiſed of any Real Eſtate]; “ and that I have not, at any Time before or ſince my Impriſonment, directly or indirectly, ſold, leaſed, aſſigned, mortgaged, pawned, or otherwiſe diſpoſed of or made over, in Truſt for myſelf, or otherwiſe than is mentioned in ſuch Account, any Part of my Meſſuages, Lands, Tenements, Eſtates, Goods, Stock, Money, Debts, or other Real or Perſonal Eſtate, whereby to have or accept any Benefit, Advantage, or Profit, to myſelf, or my Family, or with any View, Deſign, or Intent to deceive, injure, or defraud, any of my Creditors to whom I am indebted.

“ So help me GOD.”

And in caſe ſuch Priſoner ſhall happen to be one of the People called Quakers, then he ſhall ſolemnly affirm to the like Effect.—And in caſe ſuch Priſoner ſhall not profeſs the Chriſtian Religion, an Oath to the like Effect ſhall be adminiſtered to him, changing what ought to be changed, in the Manner which will be moſt binding upon his Conſcience.—And in caſe any Priſoner or Priſoners as aforeſaid ſhall, in open Court, or before any Judge thereof, take the ſaid Oath, or affirm and ſwear to the like Effect, then the Court, or ſuch Judge, ſhall and will immediately order the Meſſuages, Lands, Tenements, Goods, and Effects contained in ſuch Account, or ſo much of them as may be ſufficient to ſatisfy the Debt or Debts wherewith any ſuch Priſoner or Priſoners ſhall ſtand charged in Execution, and the Fees due to the Keeper of the Gaol or Priſon from which any ſuch Priſoner ſhall be brought, to be, by a ſhort Indorſement on the Back of ſuch Petition, and to be ſigned by the Priſoner, aſſigned and conveyed to the Creditor or Creditors who ſhall have charged any ſuch Priſoner in Execution (if more than One) his, her, or their Heirs, Executors, Adminiſtrators, or Aſſigns, for the Benefit of him, her, or them who ſhall have ſo charged any ſuch Priſoner in Execution; and upon every ſuch Aſſignment and Conveyance being executed by any ſuch Priſoner or Priſoners, he, ſhe, or they ſhall be diſcharged out of Cuſtody, by Rule or Order of this Court, or any Judge thereof; and ſuch Rule or Order being produced to, and a Copy thereof being left with, the Sheriff, Gaoler, or Keeper of any Priſon, as aforeſaid, ſhall be a ſufficient Warrant to him to diſcharge any ſuch Priſoner or Priſoners, if charged in an Execution, or detained for the Cauſes mentioned in his, her, or their reſpective Petition, and no other; and the ſaid Sheriff, Gaoler, or Keeper, is hereby required to diſcharge the ſaid Priſoner accordingly, without any Fee or Reward whatſoever for the ſame, and notwithſtanding any Fee or Reward heretofore pretended due to the ſaid Sheriff, Keeper, or Gaoler, on any Account whatſoever.—And it is further ordered, That the Perſon or Perſons to whom the Eſtate and Effects of any ſuch Priſoner ſhall be aſſigned and conveyed, ſhall, with all convenient Speed, ſell and diſpoſe of the Eſtate and Effects of every ſuch Priſoner, which ſhall be aſſigned and conveyed, and ſhall divide the net Produce of all Suits, Eſtate, and Effects, among the Creditors of every ſuch Priſoner or Priſoners if more than One, who ſhall have charged any ſuch Priſoner in Execution, before the Time of ſuch Priſoner's Petition to be diſcharged ſhall have been preſented, rateably and in Proportion to their reſpective Debts; but in caſe the Perſon or Perſons, at whoſe Suit any ſuch Priſoner or Priſoners ſtood charged in Execution as aforeſaid, ſhall not be ſatisfied with the Truth of any ſuch Priſoner's Oath, and ſhall either perſonally, or by his, her, or their Attorney, if he, ſhe, or they cannot perſonally attend, and Proof ſhall be made thereof, to the Satisfaction of the Court, or any Judge thereof, as aforeſaid, deſire further Time to inform him, her, or themſelves of the Matters contained therein, then any ſuch Priſoner or Priſoners ſhall be remanded, and the Perſon or Perſons diſſatisfied, as aforeſaid, with ſuch Oath, ſhall appear, either in Perſon, or by his, her, or their Attorney, on ſome other Day, to be appointed by the Court, or any Judge thereof, ſome Time, at furtheſt, within the Firſt Week of the Term next following the Time of ſuch Examination; and all Objections which ſhall be made, as to the Inſufficiency in Point of Form, againſt any Priſoner's Schedule of his Eſtate and Effects, ſhall be only made the Firſt Time any ſuch Priſoner ſhall be brought up; and if at ſuch Second Day which ſhall be appointed, the Creditor or Creditors diſſatisfied with ſuch Oath, ſhall make Default in appearing, either in Perſon or by his, her, or their Attorney, or in caſe he, ſhe, or they ſhall appear, if he, ſhe, or they ſhall be unable to diſcover any Eſtate or Effects of the Priſoner omitted in the Account ſet forth in ſuch his or her Petition, then and in any ſuch Caſe, the Court, or any Judge thereof, ſhall, by Rule or Order, immediately cauſe the ſaid Priſoner or Priſoners to be diſcharged, upon ſuch Priſoner or Priſoners executing ſuch Aſſignment and Conveyance of his or her Eſtates and Effects, unleſs ſuch Creditor or Creditors who ſhall have charged any ſuch Priſoner or Priſoners in Execution as aforeſaid, his, her, or their Executors or Adminiſtrators, doth or do inſiſt upon ſuch Priſoner or Priſoners being detained in Priſon, and ſhall agree, by Writing ſigned with his, her, or their Name or Names, Mark or Marks, or under the Hand of his, her, or their Attorney, in caſe any ſuch Creditor or Creditors, his, her, or their Executors or Adminiſtrators ſhall be out of Calcutta, to pay and allow Weekly a Sum, not exceeding One Arcot Rupee to Europeans, and Twelve Annas to Natives of India, as the Court, or any Judge thereof, ſhall think fit, unto the ſaid Priſoner, to be paid every Monday in every Week, ſo long as any ſuch Priſoner ſhall continue in Priſon in Execution at the Suit of any ſuch Creditor or Creditors; and in every ſuch Caſe, every ſuch Priſoner and Priſoners ſhall be remanded back to the Priſon or Gaol from whence he, ſhe, or they was or were ſo brought up, there to continue in Execution; but if any Failure ſhall at any Time be made in the Payment of the weekly Sum which ſhall be ordered by the Court to be paid to any ſuch Priſoner, ſuch Priſoner, upon Application in Term Time to the Court, or in Vacation to any ſingle Judge thereof, ſhall, by the Order of this Court, or of ſuch ſingle Judge, be diſcharged out of Cuſtody on every ſuch Execution, Proof being made before ſuch Court or Judge, on Oath, of the Non-payment for any Week of the Sum of Money ordered and agreed to be weekly paid; but every ſuch Priſoner and Priſoners, before he, ſhe, or they ſhall be ſo diſcharged out of Cuſtody by any ſuch Rule or Order, ſhall execute an Aſſignment and Conveyance of his, her, or their Eſtates and Effects in Manner herein before directed. And it is further ordered, that where more Creditors than One ſhall charge any Priſoner or Priſoners in Execution, and ſhall deſire to have ſuch Priſoner or Priſoners detained in Priſon, each and every ſuch Creditor and Creditors ſhall only reſpectively pay ſuch Weekly Sum of Money, not exceeding Twelve Annas to Europeans, and Eight Annas to Natives of India, a Week, on every Monday in every Week, to and for ſuch reſpective Priſoner, as the Court, or any Judge thereof, ſhall, at the Time of his, her, or their being remanded on ſuch Note, for the Payment of the weekly Sum ordered to be paid, being given, direct or appoint. And it is further ordered, That a Copy of this Order be affixed in ſome conſpicuous Part of the Gaol of Calcutta, as well in Engliſh as in the Bengally Language, and there continue for the Information of the Priſoners in the ſaid Gaol.

71ſt.

That all Proceedings in every Cauſe commencing by Plaint, except the Plaint do remain in the Hands of the Clerks of the Papers until Iſſue ſhall be joined, or until the Plaintiff or Defendant ſhall, by the Rules of the Court, be entitled to have the Record made up, at which Times the Clerks of the Papers ſhall deliver over the ſame to the Prothonotary; and the Record, when made up, ſhall, by the Prothonotary, be produced in Court at the Trial or Hearing of any Argument in the Cauſe, and ſhall remain in his Hands until the Expiration of Six Months; and if no Appeal be from the Judgment of this Court, the ſaid Prothonotary ſhall then deliver over the ſame to the Keeper of the Records and Muniments in this Court; but if there be ſuch an Appeal, then the Prothonotary ſhall detain the Record in his Hands until ſuch Appeal ſhall be withdrawn, or otherwiſe finally determined, and ſhall, within One Month after the Determination of ſuch Appeal, deliver over the ſaid Record to the Keeper of the Records and Muniments; and the ſaid laſt-mentioned Officer ſhall ſafely keep all Records and Muniments delivered to him, and claſs them in a regular Order, that Recourſe may be ſpeedily had thereto; and do alſo keep a Book, in which he ſhall make Dockets of the Name of the Parties, their Attornies, and the Number of the Roll, and ſhall alſo keep an Alphabetical Liſt of the Names of the Parties; and that all Copies of ſuch Proceedings and Records ſhall be made out by the Officer in whoſe Cuſtody the ſaid Proceedings or Records ſhall be at the Time the ſaid Copies are applied for.

72d.

That when any Appeal ſhall be proſecuted againſt any Judgment, Decree, or Decretal Order, given, pronounced, or made in this Court, a true and exact Copy of every Standing Rule of this Court, which ſhall in any wiſe have conduced to ſuch Judgment, Decree, or Decretal Order, to be tranſmitted to Our Sovereign Lord the King, his Heirs or Succeſſors, or his or their Privy Council, in like Manner, and together with the Copies of the Evidence, Proceedings, Judgment, Decree, or Decretal Order, in the Cauſe appealed.

(COPY.)

GENERAL APPENDIX, Nº 2.

(COPY.)

Rules and Orders of the Supreme Court of Judicature, at Fort William in Bengal.

4th TERM, 1775.

It is ordered, That all Perſons proſecuting Writs of Certiorari, before the Allowance thereof do enter into a Recognizance before the Chief Juſtice, or ſome One of the Juſtices of this Court, with Two ſufficient Manu Captors, in a Sum of Two Hundred Sicca Rupees; which Recognizance ſhall be with Condition, at the Return of ſuch Writ, to appear and plead to the Indictment or Preſentment in this Court; and at his own Coſts, to procure the Iſſue joined upon the ſaid Indictment or Preſentment, or any Plea relating thereto, to be tried at the next Seſſions of Oyer and Terminer and General Gaol Delivery, to be held in and for the Town of Calcutta and Factory of Fort William, in Bengal, next after ſuch Certiorari ſhall be returnable, unleſs this Court ſhall appoint any other Time; and if any other Time ſhall be appointed, then at ſuch other Time; and to give due Notice to the Proſecutor: And alſo, that the Party or Parties proſecuting ſuch Writ of Certiorari, ſhall appear from Day to Day in this Court, and not depart until he or they ſhall be diſcharged by this Court: And ſuch Recognizances, Certioraries, and Indictments, ſhall be filed in the Office of the Clerk of the Crown, and the Name of the Proſecutor, if he be the Party injured; and that the Name of ſuch Clerk of the Crown ſhall be indorſed thereon, together with the Day and Year when ſuch Clerk received the ſame. And if the Perſon proſecuting ſuch Writ of Certiorari, being the Defendant, ſhall not, before Allowance thereof, procure ſuch Manu Captors to be found as aforeſaid, the Juſtices of the Peace and their inferior Magiſtrates, may proceed to the Trial of the Indictment or Cauſe, notwithſtanding ſuch Certiorari: And if the Defendant proſecuting ſuch Certiorari be convicted, the Maſter ſhall proceed to tax the Proſecutor, his Coſts, if he be the Party aggrieved or injured, or be a Civil Officer who ſhall proſecute on account of any Fact that concerns him as Officer to proſecute or preſent; And in caſe ſuch Defendant or Defendants ſhall not, within Ten Days after Demand, pay ſuch Coſts he, ſhe, or they ſhall be fined and impriſoned for ſuch Contempt; and the ſaid Recognizance ſhall not be diſcharged till ſuch Coſts ſhall be paid.

Whereas, by the Abſence of Plaintiffs and their Attornies, Difficulties have ariſen in giving Notice to ſuch Plaintiffs and Attornies, by Inſolvent Priſoners within and deſirous of taking the Benefit of a Rule of this Court, made for the Relief of Inſolvent Priſoners: According to the Requiſition of the ſaid Rule, It is Ordered, That on Affidavit made to the Satisfaction of this Court, or a Judge thereof, by the Agent or Attorney of any Priſoner deſirous to take the Benefit of the ſaid Rule, that neither the Plaintiff at whoſe Suit ſuch Priſoner is charged in Execution, nor his Attorney, can be found within the Town of Calcutta, or Ten Miles thereof, if the Court or the Judge to whom ſuch Affidavit ſhall be produced, ſhall think fit to order a Notice, written in the Language ſpoken by ſuch Plaintiff (and to the Purport of the Notice required by the ſaid Rule to be ſerved on ſuch Plaintiff or his Attorney) to be fixed on the Door of the Court Houſe, and on the Gate of the Priſon, for the Space of Fourteen Days; and if the ſame ſhall be fixed accordingly, and neither ſuch Plaintiff nor his Attorney ſhall appear at the Expiration of the ſaid Fourteen Days, and accept ſuch Notice as is required by the ſaid Rule, ſuch Priſoner may proceed to take the Benefit of the ſaid Rule, in the ſame Manner as if he had ſerved ſuch Plaintiff or his Attorney with Notice purſuant to the Rule.

It is ordered, That no Summons to any Defendant to appear in any Plaint filed in this Court, if ſuch Defendant do not reſide within the Town of Calcutta, or the Limits thereof, do iſſue from the Prothonotary's Office, unleſs Affidavit, be made to the Satisfaction of the Court, or a Judge thereof, that the Defendant is ſubject to the Juriſdiction of the Court; and that the Affidavit do particularly ſpecify, in what Manner the Defendant is ſubject to the Juriſdiction of the Court.

It is ordered, That every Affidavit ſworn before this Court, or a Judge thereof, in the Purpoſe of a Capias iſſuing in any Cauſe, do particularly ſpecify in what Manner the Defendant is ſubject to the Juriſdiction of the Court.

Upon reading the Petition of Thomas Lane, George Vanſittart, George Hurſt, Charles Bentley, and William Barton, Eſqrs. Members of the Board of Trade, on the Part of the United Company of Merchants of England trading to the Eaſt-Indies, dated July 21, 1775, ſtating, That they, together with Six other Gentlemen, are appointed by the Court of Directors of the Honourable the United Company of Merchants of England trading to the Eaſt Indies, to ſuperintend the Commercial Concerns of the ſaid Company; and that by the Orders of the ſaid Court of Directors, Four Members of the ſaid Board of Trade are ſtationed at ſubordinate Factories; that by the ſame Orders Seven Members of the ſaid Board are obliged conſtantly to reſide at Calcutta, and to aſſemble themſelves in Council Twice a Week; that Five Members are, by the Orders of the ſaid Court of Directors, neceſſary to conſtitute a Board; and that among the Officers the ſaid Board are obliged to employ, the Attendance of their Secretary, the Accountant, and the Export Warehouſe Keeper, are conſtantly neceſſary; and ſtating, that ſhould any of the Members of the ſaid Board, or the Secretary, Accountant, or Export Warehouſe Keeper, be ſummoned to ſerve upon Juries, the Petitioners are apprehenſive the Buſineſs of the ſaid United Company, intruſted to their Care, would be greatly impeded, and therefore humbly praying ſuch Relief in the Premiſes as to this Honourable Court ſhall ſeem meet: And this Court being ever attentive to the Intereſt of the ſaid Company, and deſirous to remove in this, and, as far as in them lies, in every other Inſtance, all Obſtructions and Impediments to their Buſineſs, It is Ordered, That neither the Preſident of the ſaid Board of Trade, nor any other Member of the ſaid Board, nor the Secretary of the ſaid Board, nor the Accountant or Export Warehouſe Keeper, acting under the Orders of the ſaid Board for the Time being, ſhall be ſummoned to attend at any Seſſions of Oyer and Terminer and Gaol Delivery, to ſerve on any Jury. Provided always, that when there ſhall be more than Five Members of the ſaid Board of Trade reſident at Calcutta, then the Preſident of the ſaid Board, if reſident in Calcutta, or in his Abſence the Senior Member of the ſaid Board reſident in Calcutta, and Four other Members of the ſaid Board remaining unſummoned, any other Member or Members of the ſaid Board may be ſummoned to attend to ſerve on the Grand Jury.

It is ordered, That no Cauſe but Ex-parte Cauſes, and thoſe without Defence, be ſet down for hearing in the Sittings on the laſt Week of the Term; and that no Cauſe be ſet down within the Two laſt Days of the Term.

It is ordered, That where a Capias ſhall have been iſſued, and non eſt inventus returned thereto, the Sheriff ſhall not be compelled to execute another Capias, to inforce an Appearance in the ſame Cauſe, at a greater Diſtance from the Limits of the Town of Calcutta than Ten Miles, unleſs Affidavit be made, to the Satisfaction of the Court, or a Judge thereof, ſetting forth a probable Ground of Belief that the ſame may be executed; and unleſs it be, in like Manner, provided, to the Satisfaction of the Court, or a Judge thereof, that the original Cauſe of Action be ſubſiſting at the Time ſuch Affidavit ſhall be made; and unleſs ſuch Affidavit, ſhall be, at the Time of the Delivery of the Writ ſhewn to the Sheriff or his Deputy, and immediately after filed with the Prothonotary of this Court.

Whereas it is highly neceſſary to the impartial Adminiſtration of Juſtice, that the Grand Jury ſhould be of the moſt principal and ſubſtantial Inhabitants of the Town of Calcutta: And, that there ſhould be a competent Number of ſufficient Perſons returned to ſerve on Petit Juries, that the King and the Parties may have their full Challenges, that an impartial Jury may be ſworn on each Trial, and that all Jurors ſhould be indifferently choſen, It is Ordered, That the Sheriff do ſummon and return Forty-eight principal Perſons reſident in the Town of Calcutta, being Subjects of Great Britain, of our Sovereign Lord the King, to ſerve as a Grand Jury or Inqueſt at every Seſſions of Oyer and Terminer and Gaol Delivery (the Governor General and Council, and ſuch as by Law are not qualified or compellable to ſerve on Juries, only excepted) and that the Name of each Perſon ſummoned, with his Addition, ſhall be written in ſeveral diſtinct Pieces of Parchment or Paper, being all, as near as may be, of equal Size or Bigneſs, and ſhall be delivered by the Sheriff to the Clerk of the Crown, and ſhall, by the Direction and Care of the ſaid Clerk, be rolled up all, or as near as may be, in the ſame Manner, and put together in a Box or Glaſs to be provided for that Purpoſe; and at the Firſt Day of every Seſſion, ſome indifferent Perſon, by Direction of the Court, may and ſhall, in open Court, draw Twenty-three of the ſaid Parchments or Papers, one after another; and if any of the Perſons whoſe Names ſhall be ſo drawn, ſhall not appear, then ſuch further Number, until Twenty-three Perſons ſhall be drawn who ſhall appear; and the ſaid Twenty-three Perſons ſo firſt drawn and appearing, their Names being marked in the Panel, and they being ſworn, ſhall be the Grand Jury on Inqueſt for that Seſſions.—It is further Ordered, That the Sheriff do ſummon and return Seventy-two good and ſufficient Men, being Subjects of Great Britain, of Our Sovereign Lord the King, and reſident in the Town of Calcutta, to ſerve as Petit Jury at every Seſſions of Oyer and Terminer and Gaol Delivery, and that the Name of each Perſon ſummoned, with his Addition, ſhall be written in ſeveral diſtinct Pieces of Parchment or Paper, being all as near as may be of equal Size or Bigneſs, and ſhall be delivered by the Sheriff to the Clerk of the Crown, and ſhall, by Direction and Care of the ſaid Clerk be rolled up, all as near as may be in the Manner, and put together in a Box or Glaſs to be provided for that Purpoſe, and when any Priſoner or Priſoners, Perſon or Perſons ſhall be arraigned, ſome indifferent Perſon, by Direction of the Court, may and ſhall, in open Court, draw Twelve of the ſaid Parchments or Papers One after the other, and if any of the Perſons whoſe Names ſhall be ſo drawn, ſhall not appear, or be challenged, or ſet aſide, then ſuch further Number, until Twelve Perſons be drawn who ſhall appear, and (after all Cauſe of Challenge) ſhall be allowed as fair and indifferent, and the ſaid Twelve Perſons, firſt drawn and appearing, and approved as indifferent, their Names being marked in the Panel, and they being ſworn, ſhall be the Jury to try ſuch Priſoner or Priſoners, Perſon or Perſons ſo arraigned, and the Names of the Perſons ſo drawn and ſworn ſhall be kept apart by themſelves in ſome other Box or Glaſs to be kept for that Purpoſe, till ſuch Jury ſhall have given in their Verdict, and then the ſame Names ſhall be rolled up again and returned to the former Box or Glaſs, there to be kept with the other Names remaining at that Time undrawn, and ſo toties quoties, as long as any Priſoner or Perſon remains to be arraigned and tried; provided always, that neither this Rule, nor any Thing therein contained, be conſtrued to take from the Juſtices of this Court ſuch Controul as they may legally exerciſe over any Panel returned by the Sheriff, or to award any Jury Proceſs.

Whereas the Grand Jury have heretofore been unneceſſarily delayed by Proſecutors not preferring their Bills with convenient Speed; It is ordered, That no Bill of Indictment, other than againſt Priſoners in actual Cuſtody, be prepared to the Grand Jury after the Eighth Day of the Seſſions of Oyer and Terminer and Gaol Delivery, without expreſs Leave from the Court being firſt had and received.

2d. TERM, 1776.

It is ordered, on Requeſt of the Governor General and Council, that Mr. Richard Sumner be at Liberty, on paying the proper Fees to the Prothonotary and Sheriff, to ſearch for and examine in the Prothonotary's Office, all and every Affidavit or Affidavits on which any Capias has iſſued in any Civil Suit; and in the Sheriff's Office, all Summons, Capias, and Meſne Proceſs, which in any Civil Suit has come and ſhall have come to his Office; provided ſuch Search be made in Office Hours, and that Mr. Sumner, before this Court, ſhall make Oath, that he will not reveal any Information he may receive by virtue of this Order, to any other Perſon or Perſons but the Governor General and Members of the Council.

3d. TERM, 1776.

It is ordered, That no Attorney of this Court do in future demand or receive the Amount of any Bill, or any Part thereof, for Buſineſs done in this Court, till ſuch Time as the ſame ſhall have been taxed by the proper Officer, who ſhall ſubſcribe his Name thereto; nor ſhall demand or receive any Sum of Money whatſoever for any Buſineſs done or to be done in this Court, without delivering in his Bill of Coſts to the Perſon from whom ſuch Money ſhall be due, except ſmall Advances in the Progreſs of the Cauſe; and that any Attorney or Attornies receiving ſuch Advances, ſhall, within Four Days after the Judgment, or other final Concluſion of the Cauſe, account before One of the Maſters of this Court for the Money ſo advanced.

It is ordered at the Requeſt of Mr. Prothonotary Shrimpton, that his Office be open in Term for the Diſpatch of Buſineſs, from the Hours of Eight o'Clock in the Forenoon until One at Noon, and from the Hour of Six o'Clock in the Afternoon until Nine o'Clock in the Evening, and alſo that the Prothonotary's Office be open in Vacation for the Diſpatch of Buſineſs at the uſual Hours.

It is ordered, That a Seſſion of Oyer and Terminer and Gaol Delivery be held on the Tenth Day of June, and on the Fourth Day of December in every Year, except either of thoſe Days ſhould happen to be Sunday; in which Caſe it is ordered, that the Seſſions be held on the Saturday before ſuch Sunday; and the Clerk of the Crown is ordered to prepare the proper Writs in purſuance of this Rule.

L. S.

A. Fraſer, Sealer.

GENERAL APPENDIX,

N° 3.

GENERAL APPENDIX,

N° 3.

Sir,

THE Court of Directors of the Eaſt India Company, having lately received ſeveral Papers and Documents from the Governor General and Council, and from the Judges of the Supreme Court of Judicature at Fort William, containing Proceedings of a very intereſting Nature, and materially affecting the Adminiſtration of the Company's Affairs at that Settlement; and the Court being of Opinion that the ſaid Papers and Proceedings merit the earlieſt and particular Attention of His Majeſty's Miniſters, have directed that the encloſed Copies (being all that are yet come to Hand) be forthwith preſented to Lord Weymouth/Lord North for his Lordſhip's Information: I am therefore ordered to requeſt the Favour of you to lay the ſame before his Lordſhip; and to acquaint him, that ſo ſoon as the Minutes of the Council referred to therein, ſhall arrive, which are daily expected, they will alſo be tranſmitted, for his Lordſhip's further Information and Conſideration.

I am,
Sir,
Your moſt obedient, and
moſt humble Servant,
P. Michell,
Secretary.

Eaſt India Houſe,
2d May, 1776.

Sir Stanier Porten.
John Robinſon, Eſq.

To the Right Honourable the Lord Viſcount Weymouth, One of His Majeſty's Principal Secretaries of State.

My Lord,

IT is not without Reluctance, that we trouble your Lordſhip a Second Time, on the Subject of the ſeveral Letters and Papers addreſſed to us, either by the Governor General and Council, or by the Judges of the Supreme Court of Judicature in Bengal; of theſe, we have lately tranſmitted Copies to your Lordſhip: And the Neceſſity we feel of giving preciſe Inſtructions to the Governor General and Council, as well for their own Conduct, as for that of the ſubordinate Settlements, and our earneſt Deſire to conform ourſelves in theſe Inſtructions, to what His Majeſty in His Wiſdom ſhall ſee fit, compel us to apply again to your Lordſhip on this Subject.

In the Papers to which we refer your Lordſhip, it is ſtated, that the Juriſdiction exerciſed by the Supreme Court of Judicature eſtabliſhed by His Majeſty's Letters Patent at Bengal, has involved the Servants of the Company, and Officers of the Revenue acting under their Authority, in Circumſtances of Difficulty and Diſtreſs.

That the Exerciſe of this Juriſdiction muſt inevitably tend to render the Collection of the Company's Revenues impracticable; to abridge the Power of the Supreme Council and ſubordinate Factories, and thereby to prevent the carrying of any uſeful Plan into Execution for ſettling the Country, and for eſtabliſhing the Government thereof on a ſolid and permanent Foundation. References, N° 1. 2. 3. 4. 5.

That another Conſequence to be feared from the Exerciſe of this Juriſdiction, is the Alienation of the Minds of the Natives; who cannot, without great Concern, ſee a Body of Laws introduced which claſh with their Conſtitutional Peculiarities, and with their religious Sentiments and Prejudices; and who muſt feel the moſt ſenſible Alarms on finding themſelves expoſed to have their Perſons ſeized, and their Laws of Property changed, by the Orders of a Court to whoſe Juriſdiction they were Strangers. N° *6.*

Nor can we ſuppoſe, that theſe Fears and Apprehenſions will appear to your Lordſhip to be without Foundation, when in the annexed Papers you obſerve it to be ſtated,

I.

That the Court has extended its Juriſdiction to *Perſons* whom it does not appear to have been the Intention of the King or of Parliament, to ſubmit to its Juriſdiction.

II.

That it has taken Cognizance of *Matters*, both originally and pending the Suit, the excluſive Cognizance of which, we humbly conceive it to have been the Intention of the King and Parliament to leave to other Courts.

III.

That it has claimed a Right of demanding Evidence, and of inſpecting Records, which we conceive it had no Right to demand or inſpect.

Under the firſt Head, your Lordſhip will obſerve it is ſtated,

That Writs have been iſſued by the Supreme Court into all Parts of the Provinces, for bringing up Zemindars, Farmers, and other Natives, Proprietors of Lands, to the Court of Calcutta, at the Suit, and to anſwer to Complaints, of Natives. N° 1.

That by ſuch a Writ, among others, Rajah Cheyton Sing, Zemindar of Biſſenpore, a Native of high Rank and Conſideration, neither directly nor indirectly a Servant of the Company, was ordered to be brought before the Supreme Court at Calcutta.

That the Committee of Burdwan having, out of Regard as well to the Rank of this Rajah, as to the Intereſts of the Company (to whom he ſtood conſiderably indebted as a Renter) offered Bail for his Appearance within the Space of Twenty Days—That Bail was accepted by the Sheriff, but ſome of the Proceedings not having been made within the Time required by the Rules of the Court (which Rules, it is conceived, a Perſon not ſubject to its Juriſdiction, is not bound to know) an Officer of the Court was diſpatched with a Second peremptory Order not to accept Bail, but to bring the Rajah before the Court for Contempt. N° 7, 8.

That the ſaid Rajah, having been brought to Fort William by a Capias, (N° 9, 10.) was then arreſted as an *Inhabitant of Calcutta*, confined for a conſiderable Time in the Common Gaol, and ſaid to be ſubject to the Juriſdiction of the Court, *for holding an Employment under* the Company, and for receiving a certain Salary by the Year, or otherwiſe; though in fact, he only receives, as a principal Zemindar, a Portion of the Rents of his own Lands, under the Title of an Allowance or Penſion from the Company, whoſe Repreſentatives, in their Character of Dewan, have thought fit to transfer the Management of thoſe Lands to other Perſons.

That the whole Proceedings againſt him, appear to our Servants at Fort William, replete with Irregularity and Injuſtice; (N° 10.) and to be ſo much the more alarming, as almoſt all the Zemindars of the Country, ſtanding in the ſame Predicament, would feel themſelves expoſed to the ſame Dangers. It is further ſtated, that before it can be determined, whether the ſingle Circumſtance of Natives of Bengal, receiving a ſmall Portion of their own Eſtates for their Subſiſtence, conſtitutes an Employment under the Dewan, ſo as to ſubject them to the legal Juriſdiction of the Court, "the Parties are ſure to ſuffer every Diſtreſs and Oppreſſion with which the "the Attornies of the Court can eaſily contrive to harraſs and intimidate them;" to all which they muſt ſubmit, as well as finally to the Juriſdiction of the Court, unleſs they are adviſed to plead to that Juriſdiction, and are able to prove a Negative; that is, unleſs a Native of Bengal be able, from an Act of Parliament which the Governor General and Council have declared liable to different Conſtructions, to prove himſelf not ſubject to the Juriſdiction of the Supreme Court.

That

GENERAL APPENDIX, N° 3.

That a like Writ was iſſued to bring Biſſember, another Native, a Farmer of a Part of the Diſtricts called Khas Talooks, to anſwer before the Court in a Plea of Treſpaſs, ſet up againſt him by Brigo Kiſhow, Malzamin of Azeem Gunge, likewiſe a Native.

That a like Writ was iſſued to bring Sibnarain, the Zemindar, and Ramſunker Buhoy, Naib of the Pergunnah of Chunder Deep, &c. to Anſwer in a Plea of Debt to Oodul San, formerly Naib of the ſame Pergunnah. (N° 11.)

That like Writs have been iſſued for arreſting *for Debt*, to Perſons, Servants of the Nizamut, who had never been in the Employ either of the Company or of any Britiſh Subject. (N° 5.)

That on a Proſecution for Debt, a Warrant was likewiſe iſſued to apprehend Annunderain Roy (N° 10, 12.) Zemindar of the 7 Anna Diviſion of Tumlook, who is a Farmer of his own Lands, collects the Revenues merely as Farmer, and not as an Officer of the Company, or of the Country Government.

That another Native, named Ramconto Babooby (N° 10.) who was in Confinement in the Cutcherry, to anſwer Two Decrees of the Dewannee Adaulut, was ſeized by a Sheriff's Officer while under Charge of an Eſcort of the Officers of the ſaid Cutcherry, where he had been to adjuſt his Accounts reſpecting Arrears of Revenue for which he was Security.

That Petitions have alſo been preſented to the Governor General and Council, from Five principal Zemindars, complaining of Warrants having been iſſued from the Supreme Court, and of the Prejudice ariſing from the Abuſe of the Authority veſted in the Perſons ſent to execute thoſe Writs. N° 11, 12.

That the Committee of Revenue at Calcutta have repreſented to the Governor General and Council, that the Arzees, or Petitions, of the ſaid Zemindars, ſpeak ſo clearly for themſelves, that they need little Comment; but the Committee however obſerve, that the Peons, or Officers ſent by the Supreme Court to the Zemindar of 7 Annas Tumbook, had acted in a moſt unjuſtifiable Manner, not only *in prohibiting his Women from Fire and Water*, but particularly in entering their Apartments, which till that Time had, by all Governments, been held ſacred; and they expreſs their Hope, that ſuch unwarrantable Behaviour will be noticed by the Governor General and Council in the Manner it deſerves: As ſuch Acts of Violence, and ſuch Violation of the Hindoo Laws, muſt not only Diſgrace us as a National Body with the Natives, *but likewiſe breed a Diſguſt in their Minds, that may tend to the moſt ſerious Conſequences*, not to mention the inevitable Loſs occaſioned to the Revenue, which they have Reaſon to think will be great, from the heavy Balances remaining to be collected: And they further obſerve, that by the Servants of Government being ſeized and confined in Gaol, and the Confuſion occaſioned thereby in the Moſuſſel, they have the moſt melancholy Proſpect before them.

That though they have frequently troubled the Governor General and Council on Subjects of this Nature, they beg Leave to repeat, that from daily Experience they find the Authority with which they are inveſted, abſolutely, or very nearly annihilated—That their Black Servants fear to do their Duty, and that they know not how to compel them, for the Reaſons abovementioned; that from Deſpair of being able to conduct the Buſineſs of their Department, either to their own Credit, or to the Satisfaction of the Governor General and Council, they are almoſt tempted to requeſt Permiſſion to reſign their ſeveral Employments in the Revenue Branch; but as they conſider ſuch a Step might ſubject them to the Cenſure of deſerting the Intereſts of the Company, at a Time when the moſt ſtrenuous Services are required, they determine to perſevere in the beſt Manner they are able in their Endeavours for their Service, relying at the ſame Time on their Juſtice, not to hold them reſponſible for that Succeſs in their Affairs, which they have it not in their Power to inſure.

Your Lordſhip will permit us to obſerve, that the Petitioners abovementioned, declare they are the King's (meaning the Mogul's) Zemindars (N° 12.) that they are neither in the Service of the Company, nor of any Engliſh Gentleman; that having had no Practice in Engliſh Courts, they can form no Idea thereof; that they are required to give Pottah, or Leaſeholders in Calcutta, for Securities which they cannot expect to obtain; that therefore they are diſtreſſed beyond Meaſure; and requeſt, if any Man have any juſt Claim upon them, that he may be obliged to prefer it either in the Khalſa, which is the Revenue Office, or in the Adawlut, which is the Dewannee Court of Judicature; but that they are terrified at the Thoughts of the Supreme Court. (N° 12.)

That when they attend at Calcutta for the Purpoſe of paying the Government's Revenue, Warrants are iſſued againſt them by the Supreme Court, in conſequence of old Bonds produced, which have been executed by their Fathers and Grandfathers; and that by the ſaid Warrants they are put in Fear of their Lives.

That a like Repreſentation has been received from the Zemindar of Cherruleah and Muddoliah;

ſetting forth, That his Deputy had been apprehended by Warrants from the Supreme Court, (N° 13.) and conveyed to Calcutta. And the Zemindar of Cherruleah and Muddliah has aſſured the Provincial Council, that his Naib or Deputy never was employed in the Service of any Britiſh Subject, and the Naib of Chunder Deep (abovementioned) had juſt before, at the Suit of Ond-up-Seen, made Affidavit to that Effect before the Chief of the ſaid Council, under a Commiſſion iſſued by the Supreme Court of Judicature for that Purpoſe.

And the ſaid Council further repreſent, That the Members of Adminiſtration are unable to take any cautionary Meaſures till the Warrants of the Supreme Court has operated; that the ſubſequent Diſmiſſion of the Suit, in Caſes where the Proceſs is ſtopped by the Defendant's Affidavit, that he never was employed in the Service of any Britiſh Subject, affords no Reparation for the Detriment ſuſtained in the Interim by Government, owing to the extreme Difficulty of recovering Balances from the inferior Landholders, when though the proper Seaſon of Payment is elapſed. (N° 13.)

That a Petition has likewiſe been preſented by the Ramjoy Sing, a Native of India, and Naib of Nooroolapore, ſtating, That a Warrant has iſſued againſt him from the Supreme Court, though he declared he is not nor ever was in the Service of the Engliſh; and offers to make Affidavits that he is not amenable to the ſaid Court.

In all theſe Inſtances we humbly conceive, that the Perſons over whom the Court has extended its Juriſdiction, do not fall within any of the Claſſes of Perſons over whom Juriſdiction is given to the Court, either by the Act of Parliament, or by His Majeſty's Charter of Juſtice.

Both in the Act and in the Charter, *Three*, and *only* Three Claſſes of Perſons are deſcribed, over whom Juriſdiction is given to the Court.

1ſt, *Britiſh Subjects* reſiding in the Kingdoms or Provinces of Bengal, Bahar, and Oriſſa, under the Protection of the Company.

2dly, Perſons employed *directly* or indirectly in the Service of the Company, or any of His Majeſty's Subjects.

3dly, Inhabitants of India, entering into *written* Contracts with any of His Majeſty's Subjects, and in ſuch Contracts *ſtipulating*, that, in caſe of Diſpute, the Matter ſhall be heard and determined in the Supreme Court *.

But your Lordſhip will perceive, that in the Inſtances above recited, the Perſons over whom the † Court aſſumed Juriſdiction, do not fall within either of theſe Claſſes; they are not Britiſh Subjects. It is not pretended, that in any written Contract with Britiſh Subjects, they had made the Stipulation neceſſary to bring them within the Juriſdiction of the Court; nor, as we conceive, could they be ſaid to be *employed* by, or to be in the Service of, the Company, or of Britiſh Subjects. Perſons employed as Servants, perform Services, and receive a Stipend for thoſe Services. Farmers perform no Services, receive no Stipend, they only convey one Property in exchange for another Property.

We muſt further ſubmit it to your Lordſhip's Wiſdom, whether the bare Circumſtances of receiving an Annual or other ſtated Payment, can of itſelf, in all Caſes, be ſufficient to bring Perſons, otherwiſe exempted, within the Juriſdiction of the Court.

The Second Head of Complaint which occurs in the annexed Papers, is, That the Supreme Court of Judicature has taken Cognizance of *Matters*, both originally and pending the Suit, the excluſive Cognizance of which, we conceive it to have been the Intention of the King, and of Parliament, to leave to other Cours.

And here your Lordſhip will allow us to obſerve, it is in the Governor and Council that the Act for the better Management of the Affairs of the Company, has veſted, in expreſs Terms, *the Ordering, Management, and Government of all the Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, in like Manner, to all Intents and Purpoſes whatſoever, as the ſame then (at the paſſing of the Act) were, or at any Time theretofore might have been exerciſed by the Preſident and Council, or Select Committee, in the ſaid Kingdoms* ‡.

By theſe Words, we humbly conceive it to have been the Intention of the Legiſlatnre, to reſt in the Dewannee Courts and Provincial Councils, ſubject only to the Controul of the Governor General and

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* Geo. III. Chap. 63. Sect. 14, 16.

† Letters Patent, eſtabliſhing the Supreme Court of Judicature at Fort William in Bengal, 14th Geo. III. Fol. 10, 11.

‡ 13th Geo. III. Cap. 63. Sec. 7.

Council eſtabliſhed by this Act, the excluſive Juriſdiction, in all Cauſes which merely concern the Revenue, in the ſame Manner as before the paſſing this Act the ſame had been veſted in the Dewannee Courts or Provincial Councils; ſubject only to the Controul of the ancient Preſident and Council. And this Idea we conceive to be the better founded, becauſe, where it was the Intention of His Majeſty, or the Parliament, to convey the whole of the Juriſdiction of any ancient Court to the new Court of Judicature, the ancient Court is declared to be aboliſhed; and it is expreſsly commanded, that the Records, Muniments, and Proceedings thereof, be depoſited in the Cuſtody of the new Court *. Where it was intended to give the new Court any Participation in, or Controul over, an ancient Court, ſuch Participation and Controul is given in expreſs Words †.

We cannot therefore but conclude, that if it had been the Intention of the King, or of Parliament, to transfer the Juriſdiction of the Company, as Dewan of Bengal, Bahar, and Oriſſa (which Juriſdiction is exerciſed either by the Dewannee Courts, or by the reſpective Councils of the ſeveral Preſidencies) to this new Court; or had it been the Intention of the King, or of Parliament, to give to this Court a Participation in, or Controul over the others, there would have been Clauſes containing ſpecific Proviſions for that Purpoſe; whereas, neither the Act nor the Charter have, in this Reſpect, made any Alteration in the Rights of the Company, or in the Powers heretofore exerciſed by their Repreſentatives in Matters of Revenue, N° 14.

Yet your Lordſhip will obſerve it ſtated, That One of the Judges ‡, in a Charge to the Grand Jury, aſſerts, "That a very erroneous Opinion has been formed by the Governor General and "Council, diſtinguiſhing the Situation of the Eaſt India Company, as Dewan, from the common "Condition of a trading Company. That he makes no Scruple of avowing a decided Opinion, "that no true Diſtinction can be made in Reaſon, in Law, or in Juſtice, between the Eaſt India "Company as a trading Company, and the Eaſt India Company as Dewan of theſe Provinces." With reſpect to the Management of the territorial Revenues, your Lordſhip will obſerve it ſtated, that the ſame Judge, on the ſame Occaſion, declares, "That the only true Interpretation of the Act "of Parliament is, that the Management and Government attributed by the Act to the Council, are "not excluſive, but ſubject to the Juriſdiction of the King's Court (meaning the Supreme Court of "Judicature in Bengal) and that it will be equally penal in the Company, or in thoſe acting under "them, to diſobey the Orders and Mandatory Proceſs of the Court, in Matters *which merely concern* "*the Revenues*, as in any other Matter or Thing whatſoever." N° 4.

And your Lordſhip will perceive, that in this Charge, Mr. Juſtice Le Maiſtre does not deliver his own ſingle Opinion, but ſpeaks the Language of the Bench; a Language confirmed and ſupported by the frequent Claim and Exerciſe of a ſupreme controlling Juriſdiction, *in Matters which merely concern the Revenues.* In the Peruſal of the annexed Papers, Inſtances will occur to your Lordſhip, where this Juriſdiction has been actually exerciſed by the Court; others, where, though not actually exerciſed by the Court, it has been held out in terrorem by the Officers of the Court, and, ſo far as it appears from theſe Papers, without any Mark of Diſapprobation on the Part of the Court; for there your Lordſhip will find it ſtated,

That Bancaram Roy, a Gentoo, confined by Order of the Dewannee Adawlet at Moorſhedabad, was brought up by a Writ of Habeas Corpus, directed to the Keeper of the Gaol of the Adawlet, and diſcharged by Order of the Supreme Court.

That Hurry Kiſhen Tagore, of Calcutta, and Farmer of the Pergunnah of Aurſah, in the Province of Burdwan, having underlet a Part of the Pergunnah to Colly Perſaud Boſe, and Ramperſaud Boſe; and the ſaid Undertenants being conſiderably in Arrears to the Farmer, he applied, in the uſual Form, for Relief, to the Council of Revenue at Burdwan; where and where only, by the Practice of the Country, and by the Faith of Government, he had a Right to be relieved. That on this Application, the uſual Orders were iſſued for the immediate Payment of the Sum, or for the Appearance of the Defendants at Burdwan, to ſhew Cauſe why they ought not to be compelled to pay. That on the Receipt of theſe Orders, the Defendants promiſed to make good their Payment; but after various Delays and Evaſions, they ſignified, by their Attorney, to the Plaintiff, that they, the Defendants, were amenable to the Supreme Court alone, and would commence a Proſecution againſt the Plaintiff for the Demand made on them in the Revenue Council of Burdwan. N° 6.

That in the Caſe of Nunny Hurry Byſaack, againſt Ramnaut Mundell, Farmer of the Colly Colly Gunge, an Attorney of the Supreme Court ſent a formal Notice to Ramnaut Mundell, that he ſhould inſtitute a Suit in that Court for the Recovery of a Sum of upwards of 37,000 Rupees, which the Plaintiff pretended to be due to him from the Defendant, for Monies had and received on account of the Farm, and which therefore was, we conceive, to be ſued for and recoverable only before the Council of Revenue.

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* As in the Caſe of the Mayor's Court, 13 Geo. III. C. 63. Sect. 19, 20.

† As in the Caſes of Courts of Requeſt, and Court of Quarter Seſſions.—See Charter, Folio 25.

‡ Mr. Juſtice Le Maiſtre.

That

GENERAL APPENDIX, Nº 3.

That a general Opinion ſeemed to prevail among the Pykars, or Salt Brokers, that they ſhould be ſupported by the Supreme Court, in their Refuſal to have their Salt weighed at the Times and in the Manner preſcribed by the Governor General and Council; an Opinion in which they are confirmed by the Attornies of the Court.

That Comaul ul Deen, Farmer of Hidgelee, having been committed to Priſon by the Provincial Council of Revenue of Calcutta, for a Debt due from him to the Company, amounting to One hundred and Thirty-one thouſand Rupees, applied to the Judges for a Writ of Habeas Corpus, which Writ was immediately granted. That though the Return to this Writ ſtated the Rights of the Company, as Dewan, and the Power of the Provincial Council to "ſeize, impriſon, and in Priſon to detain and keep, the Perſon or Perſons indebted and in Arrears, till he or they ſhall have paid or ſatisfied the Rents and Revenues ſo due and in Arrears," yet, becauſe the Return did not ſtate, in *technical Terms*, which it had ſtated in Subſtance, namely a Power in the Provincial Council to commit without *Bail or Mainprize*, the Return was declared inſufficient, and the Preſident of the Calcutta Committee was ordered to accept of Bail; with an Intimation, that Comaul ul Deen ſhould not be again taken into Cuſtody, till his Under-renter ſhould have been called upon to pay the Rents, and proved inſolvent. (Nº 14.)

That the Governor General and Council, in their Revenue Department, having heard the Report of the Proceedings in this Cauſe, and having aſcertained beyond a Doubt, by the moſt careful Examination of competent Witneſſes, that Comaul ul Deen was the principal Farmer, was indeed the only Perſon who had any ſpecific Engagement with the Company; that Buſſunt Roy, to whom it was pretended Comaul ul Deen had transferred the Farm with the Approbation of the Provincial Council, had never been admitted as a Tenant, nor ever been conſidered by the Council in any other Light than as the Agent of Comaul ul Deen. And having further learnt, from the Examination of Perſons ſkilled in the Laws and Cuſtoms of the Dewannee Adawlets, and who ſupported their Opinions by any Precedents fully in Point, that it was the oſtenſible Farmer, he who had entered into ſpecific Engagements with the Government, from whom all Arrears ſhould in the firſt Inſtance be recovered, gave Orders to the Committee of Revenue of Calcutta to proceed againſt Comaul ul Deen *in the* uſual Manner.

That in Conſequence of theſe Orders, the Provincial Council of Calcutta did, as it was uſual to do in ſuch Caſes, a ſecond Time take Comaul ul Deen into Cuſtody, giving him at the ſame Time this Mark of Diſtinction; that he was confined, not in the Common Gaol, but in the Cutcherry.

That Comaul ul Deen applied to the Court for a ſecond Writ of Habeas Corpus, which he obtained; and in conſequence of that Writ, was diſcharged from the Cuſtody of the Dewannee Adawlet. That, not content with releaſing Comaul ul Deen, the Court proceeded to cenſure Mr. Cottrell, Preſident of the Committee of Calcutta; and that a Writ was iſſued againſt him, commanding him to appear, and anſwer, for a ſuppoſed Contempt of the Court; when, in Fact, all his Contempt conſiſted in the imputed Breach of a Promiſe, which it appears he never made, nor was empowered to make, and in his having carried into Execution the Orders of the Provincial Council of Calcutta, the Board at which he preſided, and which Orders it was his Duty to carry into Execution.

That Mr. Cottrell having attended the Supreme Court in Obedience to their Writ, no Enquiry was made into the Charge, no Evidence examined to ſupport or diſprove it, nor in ſhort no Notice whatever taken of the ſuppoſed Offence.

That in conſequence of this Interference of the Supreme Court, Comaul ul Deen ordered Suits to be inſtituted againſt the Members of the Committee of Revenue at Calcutta, for Treſpaſs and falſe Impriſonment.—And although we are by late Advices informed, that Judgment has been given for the Defendants; yet we have the Mortification to find, that the Balance due in July 1776, from Comaul ul Deen to the Company, was Sicca Rupees 113,130, beſides a Quantity of Salt, to the Value of Rupees 224,000, amounting together to a Sum exceeding £. 39,000 Sterling, of which a very ſmall Part has been received; and concerning which (and alſo another Balance of 77,000 Rupees, owed to the Company from the Farms of Burridghutty and Hattiagur) the Committee of Revenue report, That they ſee no Reaſon to doubt but they would have been recovered, had not the Committee been "*Arreſted in their Operations by the Interference of an higher Power,*" to which they were obliged tacitly and implicitly to ſubmit—That they were compelled by Neceſſity and Duty to ſtate the above Tranſactions to the Governor General and Council, and even to repeat their Repreſentations, becauſe the Recovery of the Demands of Government become daily more and more precarious—That it was with the utmoſt Concern they ſaw ſo large a Part of the Company's Property in ſuch a Situation; but that having declared their Apprehenſions of the Conſequences, they hoped a proper Allowance would be made for the Difficulties of their Station, *and that they ſhould not be held reſponſible for Loſſes which it was not in their Power to prevent.*

That Three Pottahs or Grants, made by Government to Goddahur Barber, Sam Dopa, and Sitteram Barber, Natives of India, for a ſmall Quantity of Land in Calcutta, appear to have been ſet aſide by the Supreme Court of Judicature, and the Land decreed to Ramcunt Paul, another Native of India.

That in the Caſe of Joſeph Paveſey, an Italian, whom the Chief at Patna ſeized, on a Complaint from the Amuldar of Hadjepore, the Power of ſeizing unlicenſed Britiſh Subjects, and the Power of expelling Foreigners who clandeſtinely enter the Country, and commit Acts of Violence and Outrage; though the one be delegated by Parliament, and the other inherent in every Government, were not expreſsly denied, but rendered doubtful by a Declaration delivered from the Bench.

After the Peruſal of theſe Facts, your Lordſhip will not be ſurprized to learn, that in ſome Inſtances the Operation of the Dewannee Courts is ſuſpended, in others, the Courts aboliſhed; and that the Governor General and Council are diſcouraged from taking Cognizance of Appeals from the Country Courts, under the Apprehenſion that their Juriſdiction may be diſputed, and their Decrees annulled by the Supreme Court: (Nº 1, 15, 16, 17.) Nor will your Lordſhip be ſurprized to find it ſo often repeated by the Members of our Council at Bengal, that by this Interference of the Judges, in Matters where they conceive it not to have been the Intention of the Legiſlature that they ſhould interfere; by their taking to themſelves the Cognizance of Matters, the excluſive Cognizance of which, as they conceive, is left to other Courts, the Company's Office of *Dewân* is in Effect annihilated, and the Country Government in that Reſpect totally ſubverted. (Nº 1, 3.)

Under the third Head of Complaint, ſtated in the annexed Papers, namely, The Claim made by the Court, of demanding Evidence and inſpecting Records, which it is conceived they had no Right to demand or inſpect, Your Lordſhip will obſerve

That in an Action brought by Mr. Stuart againſt Mr. Auriol, for the Recovery of 1800 Rupees, begin the Amount of One Month's Salary annexed to the Office of Secretary of the Council, the Plaintiff's Attorney addreſſed a Letter to Mr. Bruere, Aſſiſtant Secretary of the Board, requiring him to produce in Court the following Records of the Board, viz.

1ſt. A General Letter, dated *ſome Time* in the Year 1770, from the then Preſident and Council at Calcutta, to the Court of Directors in England.

2d. A General Letter of the 10th of April, 1771, from the Court of Directors, to the Preſident and Council at Calcutta.

3d. The Proceedings in Council of the 26th September, 1772.

4th. The Inſtructions ſent out by the Court of Directors, to the Governor General and Council, in purſuance of the Act of the 13th of His preſent Majeſty.

5th The Conſultations of the Governor General and Council of the 21ſt and 24th of Auguſt, then laſt paſt.

That Mr. Bruere having communicated this Letter to the Board, the Requiſition contained in it, appeared to them ſo extraordinary and unprecedented, that it was reſolved, by a Majority of the Board, not to comply therewith, Nº 18.

That in conſequence of this Refuſal, Mr. Bruere was ſerved with a Subpœna *duces tecum*, and having attended the Court without the Papers, he was told, That by not producing the Papers, he had brought all the Damages of the Suit upon himſelf: And having anſwered, That he could not produce in Court the Records of Council, without the expreſs Orders of the Board, and that the Board being acquainted with Requiſition of the Plaintiff's Attorney, had ordered him not to produce the Papers demanded; he was required by the Court to declare, Whether *all* the Members of the Board had been unanimous in giving the Order not to produce the Papers, and if not, which of the Members had voted for, and which againſt the producing of the Papers; and it being objected by the Counſel for the Defendant, that Mr. Bruere could not anſwer theſe Queſtions, without a *Breach of his Truſt as Secretary to the Board*, the Court inſiſted on his giving poſitive Anſwers thereto, and divulging, in *open Court*, the ſeperate Opinions of the ſeveral Members of the Board; aſſigning as a Reaſon for this Order, that the withholding of the Papers was a direct Denial of Juſtice, and that as the *Board was no Corporation*, the individual Members who had concurred in the Refuſal, were each of them ſeverally liable *to Actions* for ſuch Refuſal. Nº 18.

That the Court would then have charged the ſaid Mr. Bruere with a Meſſage to the Board, intimating, that the Court ſuppoſed the Refuſal of the Board to have ariſen only from an Idea that the Requiſition came from a wrong Quarter; and informing them, that ſuch Requiſitions were always made by the Attorney for one or other of the Parties; thereby implying, that the Requiſition was a Matter of *Right*; and adding, that the Court *required* the Papers to be produced in Evidence at the Trial of the Cauſe; but Mr. Bruere having declined to be the Bearer of the ſaid Meſſage, Mr. Scrimpton, Prothonotary of the Court, was ordered to deliver the ſame.

That the Board perſiſting in their former Reſolution, not to ſend the Papers demanded according to the general Requiſition; but, deſirous at the ſame Time, of ſhewing all poſſible Attention to the Court, determined to comply with what they conceived to be the real Intent and Object of the Requiſition. Nº 18.

For this Purpoſe, knowing that many of the Papers demanded, contained Matters totally foreign from the Suit in Queſtion, and conceiving, that neither ſuch Inſtructions from the Directors, nor ſuch Letters to the Directors, as had no Relation to the Suit, nor ſuch Proceedings of the Council as contained either Matter foreign to the Suit, or even the Opinions of the individual Members of the Board, reſpecting the Subject of the Cauſe depending, were Matters of a Nature which ought to be divulged, or which could be given in Evidence; the Board therefore determined, that the Secretary ſhould extract the Proceedings of the Council, relative to Mr. Stuart's taking Poſſeſſion of the Office of Secretary, with the Exceptions, and under the Reſtrictions abovementioned, and ſhould attend the Court therewith, and produce the ſame, if he were thereto required; with which Reſolution, the Prothonotary of the Court was deſired to acquaint the Court. Nº 18.

Nor was this the only Inſtance in which the Judges have demanded, as a Matter of Right, the Inſpection of the Minutes of the Board, or in which the individual Members thereof have been declared reſponſible for their reſpective Opinions delivered in Council: For your Lordſhip will obſerve,

That a ſimilar Demand, and a Declaration to that Effect, were made on occaſion of ſome Intelligence conveyed to the Judges, by we know not whom, that the Board had found it neceſſary to repreſent to the Court of Directors, the great Dangers ariſing from what the Board judged to be an improper Extenſion of the Juriſdiction of the Supreme Court. Nº 19.

That on occaſion of a Paper which the Board had judged to be a Libel on the Judges, and as ſuch, had ordered it to be burnt, the Judges, not ſatisfied with this Mark of the Board's Attention to the Honor of the Court, demanded a Copy not only of the Libel, but alſo of the Minutes of the Council; though, in neither of the laſt Inſtances could they legally know that any Minutes ſtood upon the Conſultations relative to the Subjects in Queſtion; and the Judges further required the Board to enter on their Minutes, certain Papers which the Judges called an Anſwer to the Libel. Nº 20. 21.

The Conſequence of ſuch Claims cannot eſcape your Lordſhip. If the Power aſſumed by the Judges, of inſpecting the Minutes of the Council, of knowing and publiſhing the Opinion of each individual Member of the Board, be legal, how is it poſſible that the Board can act as a Council of State? If the Doctrine laid down by the Judges, that each Member is anſwerable for his Opinion, in an Action of Damages to any Man who ſhall think he ſuffers by any Reſolution of the Board, by Law, how is it poſſible that the Board ſhould debate with Freedom, or act with Vigor and Firmneſs, when no one Member can either debate or act with perſonal Safety. Nº 18.

The laſt Head of Complaint, upon which we ſhall venture to trouble your Lordſhip, is reſpecting the Criminal Law of England being in force, and binding, upon the Natives of Bengal, though utterly repugnant to thoſe Laws and Cuſtoms by which they have formerly been governed.

And here your Lordſhip will permit us to obſerve, that Maha Rajah Nundcomar, a Native of high Rank in Bengal, was indicted, tried, convicted, and executed, for an Offenſe which was not capital by the Laws of the Country where the Offence was committed.

This, my Lord, we conceive to be a Matter of moſt ſerious Importance, and big with Conſequences the moſt alarming to the Natives of India.

The general Principle which the Judges ſeem to have laid down in their Proceedings againſt Nundcomar is, that *all* the Criminal Law of England is in force, and binding, upon *all* the Inhabitants within the Circle of their Juriſdiction in Bengal. This Principle, though it may perhaps have been adopted by the ancient Courts of Judicature, eſtabliſhed by the Charters of their late Majeſties, George 1ſt and 2d, would, as we conceive, prove ſo fatal, if purſued, through all its Conſequences, that we might reaſonably have expected, that the Judges would at leaſt have ſoftened it in the Application.

For

GENERAL APPENDIX, N° 3.

For ſuppoſing it not to be in the Power of the Judges to mitigate or vary the Puniſhment affixed by the Criminal Law of England to particular Offences, Your Lordſhip will nevertheleſs perhaps be of Opinion, that as the Priſoner had been thus tried, convicted, and condemned, by a Law of another Country, it would have been a Matter of *Prudence*, at leaſt, in the Court, to have exerciſed the Power eſpecially given them in the Charter, of reſpiting the Execution of the Sentence till His Majeſty's Pleaſure could be known, inſtead of proceeding to Execution within ſo ſhort a Space of Time after Conviction; an Authority which exiſted no where elſe within that Settlement, and which muſt be ſuppoſed to have been given for the Purpoſe of leaving His Majeſty the Power of mitigating, in Inſtances of this Nature, the Severity of the Law.

The Execution of Nundcomar appears to us the more extraordinary, when we conſider, that ſo late as the Year 1765, the Inhabitants of Calcutta were exceedingly alarmed at the Circumſtance of a Native of Bengal having been capitally convicted upon an Indictment for Forgery; that the Court of Directors petitioned His Majeſty in behalf of the Convict, and that the Royal Clemency was forthwith extended on that Occaſion.

In the Caſe, my Lord, to which we allude, it is ſtated by the Preſident and Council of Fort William, that the principal Black Inhabitants of the Place had preferred a Petition to them in Favor of Radachurn Metre, then under Sentence of Death for Forgery, ſoliciting them to defer the Execution of the ſame, and recommending the Delinquent to His Majeſty for Mercy; and the ſaid Preſident and Council obſerve, that in order to give thoſe People the fulleſt Conviction of our Lenity *as well as Juſtice*, and in Hopes that his *Condemnation* would be a ſufficient Example to deter others from committing the like Offence (which, as the Preſident and Council declare, *is not held ſo infamous* in the Eyes of the Petitioners) they had agreed to comply with their Application.

The Petition in favor of the Convict was ſtyled “The humble Petition of the native Inha- “ bitants of Calcutta, together with the Merchants, Banyans, and others, whoſe Eſtates, Intereſts, “ or Habitations, are in any Part of the Kingdoms of Bengal, Bahar, or Oriſſa, within the Ju- “ riſdiction of the Engliſh;” and it contains the moſt ſtriking Deſcription of the Impreſſions made upon the Natives in general, by the Conviction of Radachurn Metre, for Forgery.

It ſtates, “the general Conſternation, Aſtoniſhment, and even Panic, with which the Natives “ at all Parts, under the Denomination of the Engliſh, are ſeized, by this Example of Rada- “ churn Metre, that they find themſelves ſubject to the Pains and Penalties of Laws, *to which* “ *they are utter Strangers*; and that they are liable, through Ignorance, unwillingly to incur “ them. That as they are no Ways intereſted in thoſe Laws, they *cannot tell when they tranſgreſs* “ *them; many Things being, as they obſerve, capital by the Engliſh Laws, which are only fineable by* “ *the Laws of their Forefathers, ſubject to which they have hitherto been bred, lived, and governed, and* “ *that, till very lately, under the Engliſh Flag.*”

And a late Governor of Bengal, who was upwards of Twenty Years reſident in the Country, obſerves on this Occaſion, that ſo extravagant did the Sentence againſt Radachurn Metre appear, *and ſuch was the Diſproportion in the Eyes of the Natives, between the Crime and the Puniſhment*, that the principal Inhabitants of Calcutta expreſſed their Aſtoniſhment and Alarm, in a Petition to the Governor and Council; and upon a proper Repreſentation, the Convict received a Pardon.

We beg your Lordſhip to conſider, what will be the Conſequences, if the Judges proceed upon the Principle of declaring all the other Parts of the Criminal Law of England to be in force in Bengal? and they muſt ſo proceed, if they mean to be conſiſtent with themſelves.—Can it be juſt, or prudent, to introduce all the different Species of Felony, created by that which is called the *Black Act*? or to involve, as what is called the Coventry Act involves, Offences of different Degrees in one common Puniſhment? or to introduce the endleſs, and almoſt inexplicable Diſtinctions, by which certain Acts are or are not Burglary? Can certain Offenders be tranſported to His Majeſty's Colonies in America? or ſent to work upon the River Thames? ſhall every Man convicted for the Firſt Time of *Bigamy*, which is allowed, protected, nay almoſt commanded by their Law, be burnt in the Hand if he can read, and hanged if he cannot read?

Theſe, my Lord, are ſome only of the Conſequences which we conceive muſt follow, if the Criminal Law of England be ſuffered to remain in force, and binding, upon the Natives of Bengal.—If it were legal to try, to convict, and execute Nundcomar for Forgery, on the Statute of George the Second, it muſt, as we conceive, be equally legal to try, convict, and to puniſh the Subahdar of Bengal, and all his Court, for Bigamy, upon the Statute of James the Firſt.

In ſtating the Dangers which we apprehend from the Juriſdiction exerciſed by the Supreme Court of Judicature, we ſhould hold ourſelves inexcuſable if we did not at the ſame Time ſubmit to your Lordſhip's Conſideration, ſuch Reaſons as the Judges have thought proper to addreſs to us in relation thereto. Your Lordſhip will find them in the Papers to which we refer in the Margin, Nos 22, 23, 24, 25, 26, 27, 28, 29, 30.

We ſhall not preſume to make particular Obſervations upon theſe Papers; but we do not heſitate to declare it as our Opinion, that if the Supreme Court be not reſtrained from controlling the Dewannee Courts from exerciſing Juriſdiction, and interfering in Matters which merely reſpect the Revenues of Bengal, the Difficulties in collecting them will be inſuperable, and the Loſs to the Company immenſe.

That there may be an abſolute Neceſſity for determining the Bounds between the Authority of the Supreme Court and the Council, the Judges themſelves admit; that Neceſſity we conceive is now become evident. We apprehend, with our Servants in Bengal, that the very Being of Government in India depends upon having the Power of each of its conſtituent Branches fixed and declared; upon having the Limits of the Juriſdiction of the Supreme Court aſcertained, upon having it known to the People what Perſons and Matters are, and what Perſons and Matters are not, within its Juriſdiction.

It is therefore, my Lord, that through your Lordſhip we beg Leave to ſubmit to His Majeſty's Conſideration, the Inſtances above recited, in which Juriſdiction has been exerciſed by the Supreme Court of Judicature at Bengal, and deemed incompatible with the Powers given by Parliament to the Governor General and Council, which are ſaid to obſtruct the Adminiſtration of Government, tend to alienate the Minds of the Natives, and, we fear, muſt prevent the eſtabliſhing of the Government of that Country on any ſettled or permanent Foundation.

We therefore, my Lord, moſt earneſtly renew our Requeſt, That His Majeſty will be pleaſed to give ſuch Orders therein as to Him in His Wiſdom ſhall ſeem fit.

We are, with great Reſpect,
My Lord,
Your Lordſhip's
Moſt obedient, and moſt humble Servants,

East India Houſe,
the 19th Nov. 1777.

(Signed)
George Tatem.
Thos Cheap.
John Smith.
Jno Michie.
Samuel Peach.
Chas Boddam.
Joſeph Sparkes.
Rd Hall.
Jas Moffatt.
Nath. Smith.
T. B. Rous.
Geo. Wombwell.
Wm Devaynes.
Jno Purling.
Fredk Pigou.
Robt Gregory.
Ben. Booth.
John Roberts.
John Harriſon.
Heny Savage.
John Manſhip.
Geo. Cuming.
Richd Becher.

REFERENCES

REFERENCES

TO

GENERAL APPENDIX, Nº 3.

Nº 1.

Fort William, 11th April, 1775.

Minute from General Clavering, Colonel Monſon, and Mr. Francis.

THE Contents of a Letter from the Provincial Council of Moorſhedabad, recorded on the 7th Inſtant in the Conſultations of the Board of Revenue, recalls our ſerious Attention to a Subject of the utmoſt Importance to the good Government and Welfare of this Country; and on which we have hitherto been reſtrained from expreſſing our Apprehenſions or Opinions, by Motives of Caution and Reſerve, which we think the Difficulty and Delicacy of our Situation demanded of us. We mean, the Juriſdiction which, in Fact, has been aſſumed and exerciſed generally over the Natives of theſe Provinces, by the Supreme Court of Judicature, from their Firſt Meeting to the preſent Time.—The above Letter ſtates, that Two Officers of the Supreme Court of Judicature were arrived at Moorſhedabad, and were to proceed to Patna with ſeveral Warrants; One of which was to ſeize the Body of Raja Dula Roy, the Dewan of that Diviſion, and produce him in Court by the 21ſt of March, unleſs he ſhould give Bail for his Appearance.—The Council of Moorſhedabad conclude their Letter with the following Obſervation; the Truth of which, we believe, is generally felt all over the Provinces: "We ſhall not preſume to point out to the Gentlemen of the Supreme Court of "Juſtice, executing their Authority over the Officers of Collections or Complaints of this Kind, nor "the Effect it has on the Minds of the People, to ſee a Perſon of the Rajah's Rank ordered to be "ſeized and ſent to Calcutta."—Similar Writs have been iſſued into every Part of the Provinces; at Dacca we were ſome Time ago informed that they had occaſioned an univerſal Alarm through that Diſtrict.—The Effect of theſe Writs in the Calcutta Diſtricts, has fallen more immediately within our Obſervation. Zemindars, Farmers, and other Proprietors of the Lands, have been ſeized upon their Eſtates, and forcibly brought up to the Preſidency, at the Suit or Complaint of other Natives, and detained here, or obliged to give Bail, according to the Nature of the Caſe.

In Calcutta the Operation of the Dewannee Court of Adawlut has been totally ſuſpended.—The Phouſdarry Cutcherry, or Criminal Court, is aboliſhed, and the Supreme Council have for ſome Months paſt declined taking Cognizance of Appeals from the Country Courts, in the Apprehenſion that the Legality of their Juriſdiction might be diſputed by the Supreme Court, and their Decrees annulled.—In this Situation we ſee no Reaſon why Perſons committed by Decrees of the Country Courts may be allowed to take out Writs of Habeas Corpus, and to transfer their Perſons and their Cauſes to a new Juriſdiction; to which, for the Hopes of a Reverſal of the Decrees or Sentences already paſſed againſt them, they may be willing to declare themſelves ſubject.—If a Writ of Habeas Corpus be granted to every Perſon in Confinement who may apply for it, we fear it will be in vain for the Dewannee Court to commit a Renter, or other Debtor of Government, for Non-payment of his Rent; by removing his Cauſe to Calcutta, he gains Time, defies the Authority of the Court to which he was heretofore amenable, and ultimately evades the Demand of Government, or make it impoſſible to be recovered.

To theſe Conſiderations we beg Leave to add, that ſuppoſing the Powers of the Dewannee Courts not to be ſuppreſſed or ſuſpended by any direct Declaration or Act of the Supreme Court, ſtill it may happen, that by Colluſion, every Native of Bengal may come within the Juriſdiction of that Court; ſince it depends upon the Parties themſelves to refuſe Submiſſion to the Provincial Courts, and to acknowledge or deny the Juriſdiction of the Supreme Court over them, as it may beſt ſuit their immediate Purpoſe.—The Court of Dewannee Adawlut, in Calcutta, being now in Fact ſuppreſſed, there is no regular Courſe of Judicature by which the Claims, or Petitions of the Natives, in Matters relative to the Revenue, or any Civil Suits between Native and Native in Calcutta, can be determined.—To this Defect we attribute, in great Meaſure, the Multitude of vexatious Suits and Petitions with which the Supreme Council is now loaded and oppreſſed: Until the Authority of that, and the Phouſdarry Court, ſhall be reſtored and acknowledged, we believe, that not only the People muſt continue to ſuffer all the Inconveniences neceſſarily ariſing from the Want of a regular Tribunal to which they may carry their Complaints; but that it will be found very difficult, if not impracticable, for Government to collect the Rents of this great City, or of the Purgunnahs adjacent to it.

Sincerely diſtruſting our own Judgment, and wiſhing in a Point of this Nature to appeal to Experience rather than to Argument, we have reſtrained ourſelves from entering into any Diſcuſſion of the Legality of the Powers aſſumed by the Supreme Court, or of the formal Reaſoning by which a Claim to ſuch Powers may be ſupported.—We have waited to ſee the Extent and Operation of thoſe Powers, with the Conſequences which in Fact might attend them.

In agitating a Queſtion, which turns upon the true Conſtruction of an Act of Parliament, we are ſenſible of the great Advantage which Gentlemen deeply learned in the Forms as well as the Spirit of the Britiſh Laws, poſſeſs over us.

When the Supreme Court iſſue Writs of Attachment, Habeas Corpus, or Subpœna, in the King's Name, addreſſed to Perſons whom the Legiſlature have deſcribed by the Title of Natives, in contradiction to Britiſh Subjects, who do not acknowledge His Majeſty to be their Sovereign, and over whom His Majeſty's Sovereignty is not declared; when we ſee ſome of the principal Perſons, Natives of this Country, arreſted by Order of the Supreme Court, and called down from the moſt diſtant Parts of the Provinces to anſwer to Suits inſtituted againſt them in the Court by other Natives, and that the Judges, inſtead of limiting their Juriſdiction to Britiſh Subjects, or Perſons bound by voluntary Contract with Britiſh Subjects, or immediately in their Service, are determined to allow it an Operation which may and does include every Inhabitant of the Country; we will not take upon us to decide, whether their Conduct in this Reſpect is ſupported or condemned by the ſtrict Letter of the Act of Parliament and His Majeſty's Charter; but we are ready to declare our clear and deliberate Opinion, that it was not conformable to the true Spirit of the Law and Charter, or to the Views and Principles on which the Supreme Court of Judicature was inſtituted by the Legiſlature; much leſs can we diſcover in the Proceedings of the Judges, any Traces of that Moderation and Diſcretion which might have been obſerved, particularly at the Outſet of a new Inſtitution, and in the Exerciſe and Application of Judicial Powers, not only new in themſelves, but derived from a Sovereignty unknown to the People over whom thoſe Powers were to be exerted.—In a Situation ſo full of Difficulty and Hazard, and in which an unguarded or precipitate Aſſertion, even of the Powers legally veſted in the Supreme Court, might be attended with the moſt dangerous Conſequences to the State, we rather hoped for Aſſiſtance from the Judges in the Settlement of this Government, than had any Apprehenſions that they would carry their Juriſdiction to an Extent, which, as we from the firſt apprehended, and as we now are convinced, muſt throw the whole Country into Confuſion.

The private Diſcourſes and Explanations with which the Judges had honoured us, before our Arrival in Bengal, tended to confirm us in this reaſonable Expectation: On the Extent and actual Exerciſe of their Juriſdiction, they ſeemed to us, to entertain but One Opinion, as they certainly held but One Language; that it was their Firſt Duty to take care, *ne quid detrimenti*, that no Miſchiefs or Inconveniences, unforeſeen by the Legiſlature, whether to the Government or to the People, ſhould flow from this Inſtitution.

Something, undoubtedly, was truſted to their Prudence; and admitting that any Defect, or Want of Preciſion, ſhould appear in this Part of the Act of Parliament, or in the Charter, or that every Inconvenience which might ariſe here from the Eſtabliſhment of the New Court of Judicature, was not foreſeen or provided for by the Legiſlature; ſtill we are convinced, that there were none, which the Judges, by a diſcreet Exerciſe of their Powers, might not have qualified, corrected, or prevented.

To this Time, we have deferred making any ſtrong Repreſentation to the Honourable Court of Directors, on this important Subject, as well out of perſonal Reſpect to the Judges, as from the Fear of appearing to throw a haſty or unguarded Reflection upon an Act of the Legiſlature and His Majeſty's Charter, which, as we are told, unavoidably create Evils and Inconveniences not to be remedied by any diſcretionary Powers veſted in the Judges.

Our Duty to the Company will not permit us to withhold our Sentiments on this Subject any longer from their Knowledge.

If the Honourable Court of Directors ſhould ſee the Conſequences of the Proceedings of the Judges to this Country and Government, in the ſame Light that we do; it is our Hope and Expectation that they will take ſome early Meaſures, by Application to Parliament, or otherwiſe, for reducing the Juriſdiction of the Supreme Court to the juſt and rational Limits within which we believe the Legiſlature intended to confine it; and for giving to the Supreme Council a Decree of Power and Authority ſufficient to ſettle the Country, and to eſtabliſh the Government of it on a ſolid and permanent Foundation.

No 2.

Extract of a Minute from General Clavering, Colonel Monſon, and Mr. Francis, dated 21ſt November 1775.

IN Spite of numberleſs Diſcouragements, our Endeavours to ſerve the Company have not entirely miſcarried; if more ſhall be expected from us, the Power and the Means muſt be proportioned to the End: Conſidering the Oppoſition and Reſiſtance we meet with from every Quarter, we are, in Truth, unable to determine, whether any and what Power are left to this Government. If by our Authority as Dewan confirmed to us by Parliament, a Farmer be confined for Arrears of Rent, the Supreme Court of Judicature take the Cauſe out of our Hands, decide upon the Merits, and diſcharge the Priſoner; if we diſmiſs the Judge Advocate, he applies to the Supreme Court for a Mandamus to reinſtate him in his Office; if we diſmiſs the Secretary of our own Board, we ſee him encouraged to bring an Action for the Salary againſt his Succeſſor; if we order a Britiſh Subject to repair to the Preſidency, he pleads the Protection of the Supreme Court of Judicature, and declines or refuſes to obey us; if, for Reaſons of the moſt ſerious political Importance, we endeavour to ſuport the Authority of the Country Government, and the Sovereignty of the Suba, we have not only the foreign Factories, but the Supreme Court of Judicature immediately to contend with: They publicly deny the Exiſtence of ſuch a Government, and affectedly hold out the Perſon and Authority of the Prince, to the Contempt of the World. According to the Doctrines maintained by the Judges, there is ſcarce any Act of Government, however neceſſary or expedient, which, if it tends to controul the Actions, or to thwart the Intereſts of Individuals, may not expoſe the Members of the Council to Actions in the Supreme Court; we even doubt whether we are authorized to prevent any Perſon from quitting the Provinces and going up the Country, though we ſhould be certain of their Intention to enter into the Service of a foreign Power. In theſe Circumſtances, many uſeful and obvious Regulations, for the Benefit of the Country, muſt neceſſarily be left unattended. A general Re-coinage has been repeatedly recommended to us by the Court of Directors; ſuch a Meaſure is, without doubt, indiſpenſibly neceſſary; but it is of a Nature too delicate and important, and likely to be attended with too many Difficulties in the Execution, to be undertaken with Safety by a divided Government, with a hoſtile Court of Judicature. We could point out a Number of other Objects which would deſerve our Attention, and of Abuſe, which call upon us for Redreſs; but this is not a Seaſon for a mere Majority of a Council to undertake any Meaſure for the public Service, in which the Learned in the Laws of England can diſcover any Thing to cavil at.

While a Standard is publicly hoiſted againſt our Authority, and every Individual in the Country invited to repair to it; while Protection is given to every Man, who denies or reſiſts the Authority of Government, and while the Governor General takes a willing and decided Part in every Meaſure that tends to degrade the Council, and diſarm us of our lawful Powers, we are not ſanguine enough to expect that any Efforts of ours ſhould be equal to the Execution of the Truſts repoſed in us.

We cannot anſwer for the Collection of the Revenues, we cannot anſwer for the internal Government of the Country, nor for the Safety of the State; our utmoſt Endeavours ſhall ſtill be exerted to preſerve the Peace, and to promote the Welfare of the Country, until the Neceſſity or Expediency of a new Arrangement ſhall be determined at Home; but, diveſted as we are of *all Power*, we owe it to our Safety and Character to diſcharge ourſelves in the moſt ſolemn Manner of all *Reſponſibility*.

(Signed) J. Clavering,
Geo. Monſon,
P. Francis.

REFERENCES TO N° 3.——N° 3, 4, 5.

N° 3.

From the Governor General and Council to the Court of Directors, dated 24th March 1775.

WE hoped to have informed you by this Ship, of the Line having been drawn between the Juriſdiction of the Supreme Court of Judicature, and that of the Country Courts; and to have given you our Opinion of its probable Effects; but this ſtill remains undecided: We underſtand, however, that the Supreme Court have declared preremptorily againſt any other Criminal Juriſdiction exiſting in Calcutta, than that eſtabliſhed by the Charter. But whether their Civil Juriſdiction is to exiſt excluſively in the ſame Limits, or whether it is to extend to the Dewans Officers, and Dependants of the Dewannee throughout the Provinces, remains yet for Deciſion: We apprehend, if it is determined for the Extenſion, that the Conſequences may prove hurtful to the Collections, and even if the Juriſdiction is confined to Calcutta, that great Embarraſſment will accrue thereby to the Management of the Revenue; as this City, being the Seat of Government and Center of the Collections, becomes occaſionally the Reſort of every Man of Rank and Subſtance in the Country. Theſe Conſiderations we ſubmit to you in the mean Time, and will take Care to adviſe you of the ultimate Deciſion of the Court on thoſe Points, as it is declared.

N° 4.

Extract of Minute from General Clavering, Colonel Monſon, and Mr. Francis, dated Fort William, 21ſt November 1775.

THAT Oppreſſions of the moſt grievous Nature have exiſted, and do ſtill exiſt, in this Country, is a Truth too notorious to be diſputed; but we believe they are not of that Nature, to which the Arguments of the Judges would apply. The ancient Landholders indeed have been almoſt univerſally ouſted of their Poſſeſſions; nor has any Attention been given to protect the Ryots, who ought to be the principal Objects of the Care of Government; but it does not appear that the Farmers have been treated with a greater Degree of Severity by the Provincial Councils, than they were heretofore. In the Three Firſt Years of the Settlement, by the Committee of Circuit it appears, that the Dewannee Lands alone, the Remiſſions to the Farmers, amounted to very near Thirty-nine Lacks of Sicca Rupees, beſides a Balance in Arrear of almoſt Forty-ſix Lack more. We believe, that in the ceded Lands and Bahar, the Farmers will be found to have experienced equal Indulgence. Theſe are the Men, however, who will avail themſelves of the Protection held out to them by the Supreme Court of Judicature; enriched by the Ruin of the Farm, and loaded with the Spoils of the Ryot, they may now conſider themſelves as ſecure againſt the juſt Demands of Government. If we attempt to enforce our Demands by Confinement, a Writ of Habeas Corpus immediately iſſues. The Judges enter into the Merits of the Cauſe, declare our Proceedings illegal, diſcharge the Priſoner, and threaten our Officers with Fine and Impriſonment, if they preſume to moleſt them.

N° 5.

Extract of a Letter from the Governor General and Council of Bengal, to the Court of Directors of the Eaſt India Company.

Fort William, 15th January, 1776.

23d. BY Letters lately received from the Nabob Mobaruck ul Dowla and his Miniſter, we underſtand, that a Warrant has been iſſued from the Supreme Court to arreſt Two Perſons for Debt, who are Servants of the Nizamut, and have never been either in the Employ of the Company, or of any Britiſh Subject. The Governor General on this Occaſion applied to the Chief Juſtice; who ſent him the Purport of the Affidavits, by which the Perſons againſt whom the Warrant had been granted, were declared to have been reſident in Calcutta, at the Time the Cauſe of Action accrued. We conceive, that ſuppoſing the Court of Judicature to have a local Juriſdiction in Calcutta, and the Factories dependent, the ſingle Circumſtance of having formerly reſided in Calcutta, if even a Fact, could not render theſe People liable to the Juriſdiction of the Court, after their Removal to Parts of the Provinces not within the Limits of our Factories; yet we thought it would be improper for us to interfere in any Manner between the Nabob and the Judges, and have therefore, in Reply to this Letter, only mentioned our Opinion as above ſtated; and for his further Information, we ſent him a Copy of the Act of Parliament; telling him at the ſame Time, that the Judges were accountable for their Conduct to the King of Great Britain; and leaving it to him to take ſuch Meaſures, with the Advice of his Miniſters, as he may judge neceſſary for the Support of his own Dignity, and the Rights of the Nizamut. As we did not unanimouſly concur in theſe Sentiments, we beg Leave to refer to the Conſultations for further Particulars.

24. The Mention of the Circumſtance leads us to ſuch further Obſervations on the Juriſdiction claimed and exerciſed throughout the Provinces by the Supreme Court of Judicature: In Anſwer to thoſe Paragraphs of your General Letter of the 3d March 1775, which relate to the unwarrantable Pretenſions of the French in this Country, and to their avowed Contempt of the Nabob's Authority. We beg Leave to ſtate to you the Difficulties in which the Company's Inſtructions on this Subject are likely to involve this Government, and the Diſtreſs to which the Doctrines maintained by the Supreme Court of Judicature may expoſe us perſonally, if our Endeavours to carry into Execution the conſtant and repeated Orders of the Company to ſupport the Country Government, and the Rights of the Nizam, and to execute the Duties annexed to the Office of Dewan, ſhould claſh with thoſe Doctrines. To do this in the cleareſt Manner, it may be proper for us to repreſent on one Side the Sum of our Inſtructions, which we are bound by Law to obey; and on the other, the Declaration of the Judges from the Bench, on the ſame Subject. The original Policy of the Company is too well known, to make it neceſſary for us to look far back for the Orders under which we think we are at preſent bound to act. Since the Death of Meer Jaffier, the Company have guaranteed the Subadarry of Bengal, by Three ſucceſſive Treaties, to his Deſcendants: In your Letter of the 10th April 1771, (Paragraph 57) you take Notice of the Acceſſion of the preſent Nabob, and after blaming the Conduct of your Servants in other Reſpects, you ſay, "We do not mean to diſapprove the preſerving the Succeſſion in the Family of Meer Jaffier, on the contrary Juſtice and Policy recommend a Meaſure which at once correſponds with the Cuſtoms and Inclinations of the People of Bengal."

25. In your Letter of the 28th Auguſt 1771, (Paragraph 24) you ſay "We are fully ſenſible of the Expediency of ſupporting ſome oſtenſible Miniſter in the Company's Intereſt, at the Nabob's Court, to tranſact the political Affairs of the Circar, and interfere between the Company and the Subjects of any European Power, in all Caſes wherein they may thwart an Intereſt, or encroach on our Authority: The Perſon is to be the active Miniſter of the Nabob's Government." When you wrote your Letter of the 3d March laſt, you had it then immediately under your Conſideration, with the Act of Parliament before you, to give us ſuch Inſtructions as you thought neceſſary for our Guidance in ſupporting the Rights of the Nazim againſt the Encroachments of the French, who refuſed Submiſſion to the Laws and Authority of the eſtabliſhed Government. You tell us you are determined to aſſiſt the Government in preventing the Abuſe of the Firmain Privilege; that you are engaged by ſolemn Stipulation to ſupport the Nizamut; you direct us to afford the Country Government all neceſſary Aſſiſtance in the Execution of ſuch equitable Laws as may be framed for the Protection of the Natives; that as to the erecting of new Factories, however the French may affect to deſpiſe the Nabob, it is with him alone they are to treat on that Subject, and ſhould they at any Time attempt to eſtabliſh other Factories than thoſe poſſeſſed by France in 1749, you do not heſitate to direct, that we forthwith apply to the Nabob, and uſe our utmoſt Endeavours to engage him to prevent all ſuch Eſtabliſhments.

26. If the French perſiſt in their Contempt of the Nabob, it is your Orders, that we decline as much as poſſible, entering into a Diſcuſſion of ſuch their Complaints as ſhall be cognizable by the Nazim of the Provinces. In concluſion you tell us, "That as King's Dewan, you have a Right to form Regulations for the better Management of the Revenues, and to inſiſt on Payment of Duties, and from this Right you cannot recede."

27. It is not poſſible to miſtake your Meaning and Intention in giving us the preceding Inſtructions; you acknowledge the Exiſtence and Authority of the Country Government; you admit the Rights of the Nazim veſted in the preſent Subadar, and you direct us to ſupport him in the Exerciſe of them, and to make a new Treaty with him: The Encroachments againſt which you order us to appeal to the Nabob, are ſuch as can hardly be reſtrained by the Authority of the Sovereign, whoever he may be; the Acts in which you require us to ſupport him, are Acts of Sovereignty.

28. You muſt already have obſerved how inconſiſtent both the Letter and Spirit of theſe Inſtructions are with the Doctrines ſolemnly delivered by the Judges, in a Caſe on which they thought fit to decide, without any apparent Neceſſity, upon the whole Rights of the Nabob. Mr. Juſtice Hyde ſays, "The Act of Parliament does not conſider Mobaruck ul Dowla as a Sovereign Prince; the Juriſdiction of this Court extends over all his Dominions; his Situation is not ſuch as will enable him to confer the Character of Ambaſſador."

29. Mr. Le Maiſtre ſays "With Regard to this Phantom, this Man of Straw, Mobaruck ul Dowla, it is an Inſult on the Underſtanding of the Court, to have made the Queſtion of his Sovereignty. But it comes from the Governor General and Council; I have too much Reſpect for that Body to treat it ludicrouſly, and I confeſs I cannot conſider it ſeriouſly."

30. Mr. Chambers declines giving any direct Opinion on the Subject.

31. The whole Tendency of the Chief Juſtice's Opinion, is, to ſhew that the Nabob is a mere empty Name, without any real Right, or the Exerciſe of any Power whatſoever; he expreſsly ſays, "That the Agents of the Eaſt India Company (meaning the Governor and Council of this Preſidency) cannot, by making the Nabob the Inſtrument, do indirectly what they would not aſſume to do directly."

32. We have then the unanimous Opinion of the Court, "That neither the Eaſt India Company nor their Servants, both being ſubject to the Laws of the King of Great Britain, can, by interpoſing the Name of the Nabob, ſcreen any Criminal from the Juſtice of the Court;" and this they call an illegal Execution of the Powers of a double Government to defeat the King's Laws.

33. Mr. Le Maiſtre, in his late Charge to the Grand Jury, declares, That a very erroneous Opinion has been formed by the General and Council, diſtinguiſhing the Situation of the Eaſt India Company as Dewan, from the common Condition of a trading Company; he makes no Scruple of avowing a decided Opinion, that no true Diſtinction in Reaſon, in Law, or Juſtice, can or ought to be made between the Eaſt India Company as a trading Company, and the Eaſt India Company as Dewan of theſe Provinces.

34. With Reſpect to the Management of the Territorial Revenue, he is pleaſed to declare, "That the only true Interpretation of the Act of Parliament is, that our Management and Government is not excluſive, but ſubject to the Juriſdiction of the King's Court; and that it will be equally penal for the Company, or for thoſe acting under them, to diſobey the Orders and mandatory Proceſs of the King's Court, in Matters which merely concern the Revenues, as in any other Matter or Thing whatſoever.

35. By the ſeveral Acts and Declarations of the Judges, it is plain, that the Company's Office of Dewan is annihilated; that the Country Government is ſubverted; and that any Attempt on our Part to exerciſe or ſupport the Powers of either, may involve us and our Officers in the Guilt and Penalty of High Treaſon; which Mr. Juſtice Le Maiſtre in his Charge, expreſsly holds out *in Terrorem* to all the Company's Servants, and others acting under our Authority. We muſt conclude our Repreſentations of the diſtreſſing Circumſtances in which we find ourſelves involved, with an earneſt Requeſt to you, to take the actual State of this Government into your moſt ſerious Conſideration, and that if you ſhould think it adviſeable to adhere to and inſiſt on the ſeveral Rights which at preſent you conceive to be veſted in the Company, or in the Nabob's Government, you will not only furniſh us with the moſt clear and preciſe Inſtructions for our future Guidance, but that for our perſonal Safety, as well as your own Honour, you will be pleaſed to aſcertain, by the beſt legal Advice that can be obtained in England, how far our Obedience to ſuch Inſtructions will expoſe us to the Penalties denounced by the Supreme Court of Judicature here, or by what Rule we may be aſſured of the Legality of our Proceedings.

N° 6.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 28th April 1775.

READ the following Petition and Incloſures from Henry Kiſhen.

To the Honourable Warren Haſtings, Eſq. Governor General, and the reſt of the Gentlemen of the Council at Fort William.

The humble Petition of Henry Kiſhen, Tagore of the Town of Calcutta,

Moſt humbly Sheweth,

That your Petitioner is a Farmer of the Purgunnah of Aurſah, in the Province of Burdwan, at the Annual Rent of about One Lack of Rupees.

That Colley Purſaud Boſe, for his Son, Ram Purſaud Boſe, rents from your Petitioner a Number of Villages, comprehended under the general Name of Turrup Cublore, in the ſaid Purgunnah, at the Annual Sum of about 17000 Rupees, being only an Advance of about 300 Rupees on the Rent which your Petitioner pays to the Government for the ſame.

That Tillock Ram Roſe is Malzamin or Security for the ſaid Colley Purſaud Boſe, who is in like Manner

REFERENCES TO N° 3 — N° 6.

Manner Security for his Son Ram Purſaud Boſe, an Infant; and that it is the eſtabliſhed Cuſtom of the Province of Burdwan, for the Malzamin or Security to pay the Rent.

That the Rent of the ſaid Diviſion of the Turrop Khautore has been conſtantly ſettled at Burdwan, by the Gomaſtah of the ſaid Tillock Ram Roſe and your Petitioner; and that Bills of Exchange for the Amount due at the Periods of Settlement, have been granted by the Gomaſtah of the ſaid Tillock Ram Roſe upon his Maſter, payable in Calcutta, Four Days after Sight, to the Order of your Petitioner; who has regularly paid in Calcutta, the Bills drawn upon him in Favor of Government, for the Rent of his Farm in the Burdwan Province.

That of Two Bills of Exchange, drawn in the Month of December laſt upon Tillock Ram Roſe, in the Manner abovementioned, and accepted by him for the Rent which he then owed, there remains yet due, notwithſtanding all the Endeavours of your Petitioner to obtain Payment of Balance, of R^{s} 2,400, and that of Three more Bills of Exchange drawn in the ſame Manner in the Month of January, and Amount to R^{s} 3,000.

There is no Part yet paid, nor are the Bills accepted; the ſaid Tillock Ram Roſe having pretended, that the Accounts ſettled at Burdwan by his Gomaſtahs, previous to drawing theſe Bills, was erroneous.

That your Petitioner, on his finding with-held from him the Sum of 5,400 R^{s} for Rent, which he had himſelf punctually paid to the Government, did, in the Month of February, make Complaint thereof to Mr. Stephenſon, Chief of the Council of Revenue at Burdwan; who, as is uſual in ſuch Caſes, ſent Two Peons with a Perwannah to Tillock Ram Roſe, enjoining him to pay the Rent due to your Petitioner, or to repair to Burdwan to ſettle his Account.

That the ſaid Tillock Ram Roſe did, upon ſeeing this Order, promiſe to diſcharge his Debt to your Petitioner; but, after various Evaſions for the Space of Six Weeks, in which he paid only 300 R^{s}, your Petitioner, deſpairing of obtaining Satisfaction from him, did make a freſh Complaint to Mr. Stephenſon; who, in conſequence iſſued a Second Perwannah, dated 27th March laſt; the Original of which, with an Engliſh Tranſlation, is herewith laid before your Honourable Board.

That upon the Arrival of this Perwannah, the ſaid Tillock Ram Roſe, promiſed to pay his Rent in Four Days, and your Petitioner then hoped, after ſo much Trouble and Delay, that Juſtice would be done him; but inſtead of this, he, to his great Surprize, received on the 11th Inſtant, a Letter from Mr. James Pritchard, Attorney at Law, wherein he is told, that if he has any Suit to commence againſt Tillock Ram Roſe, and Colly Purſaud Boſe, or Ram Purſaud Boſe, he muſt carry them into the Supreme Court at Calcutta, to which only theſe People are amenable; and wherein further, he is threatned with a Proſecution for the Demand made upon them, by the Revenue Council of Burdwan: The ſaid Letter is alſo ſubmitted for the Peruſal of the Honourable Board.

Your Petitioner, thus ſituated, moſt humbly applies to you for Relief. He became a Farmer under Government, depending upon its juſt Protection and Support, according to the eſtabliſhed Practice of this Country, from Time immemorial. In this Dependance he has hitherto punctually fulfilled his Engagements: But if thoſe who have in like Manner entered into Engagements with him, may either break or evade them, it will be no longer poſſible for him to adhere to this; he muſt be ruined, and, in the End, the Government be the Sufferer: Moſt earneſtly entreating, therefore, that his Caſe may be taken into Conſideration,

Calcutta,
15th April, 1775.

Your Petitioner, as in Duty bound, will ever pray.

Tranſlation of a written Order, ſigned by Edward Stephenſon, Eſquire, Preſident at Burdwan.

Company's Seal.

To Tulluc Rum Rhoſe. The Vakeel of the Farmer of Aurſah Purgunnah, has complained, that you, being Security for your Grandſon, Renter of Turreep Khaulore, in that Purgunnah, owe a conſiderable Balance for the ſame; which you maliciouſly refuſe to pay. This is not good; I expect you will pay the juſt Balance, and ſend the Writing of Satiſfaction, otherwiſe, if you have any Objection, you may appear here.

Bengal Year 1181. (Signed)
Chort 16th, or March 17. Edward Stephenſon.
Two Hircarrahs.
Nº 887.

Murry Kiſhin Tagere.

I am inſtructed by Tilloc Rham Bhoſe, and Colly Perſaud Bhoſe, to inform you, that if you have any Suits at Law to commence againſt them, or Ram Perſaud Boſe, that they will anſwer them in the Supreme Court of Judicature at Calcutta; and I have their further Inſtructions to acquaint, that if the Peons and Hircarrahs you have ſent to their Houſe in Calcutta, do not immediately withdraw themſelves, they and their Employers will be proſecuted; as Tulluc Kram Boſe, Colley Perſaud Boſe, and Ram Perſaud Bhoſe, are Objects of the ſaid Supreme Court, reſiding in the Town of Calcutta; and therefore, can't be ſued in any other Court.

I am, &c.

Calcutta, (Signed)
11th April, 1775. James Pritchard.

Nº 7.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 21ſt April 1775.

THE Secretary lays before the Board, the following Letters, from the Provincial Council of Burdwan, the Governor General's Propoſition, and the Minutes of the ſeveral Members on the Arreſt of the Zemindar of Biſſenpore.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. and Council, Fort William.

Honourable Sir, and Gentlemen,

A few Days ago, we received a Repreſentation from Cheyton Sing, one of the Zemindars of Biſſenpore, ſetting forth, That a Peon from the Adaulut at Calcutta, had brought a Summons to him, requiring his Attendance before the Court; on which we directed our Naib at Biſſenpore, to deſire the Peon to repair to Burdwan with the Summons, that we might know by what Authority it was iſſued. The Rajah and the Peon are in Conſequence arrived here To-day, and upon an Examination of the Summons, we find it is ſent from the Supreme Court of Judicature.

As the Rajah is not only a Perſon of ſome Rank, but alſo One of the joint Renters of the Biſſenpore Province, and is likewiſe in Arrears to Government to the Amount of 36,000 Rupees, we thought that a Compliance with the Warrant would, in a great Degree, hurt his Credit; and, as he is much involved in Debt, the evident Conſequence of his going to Calcutta, would be a Number of Claims on him from different Quarters. We have therefore in our private Capacites, ſatisfied for the preſent the Sheriff's Officer, in granting him Bail for the Rajah's Appearance in the Space of 20 Days. We hope this Step will meet with your Approbation, and in the mean Time, we have to requeſt your Orders how to proceed on the Expiration of the Term limited, that we may regulate ourſelves accordingly, not only in the preſent Inſtance, but alſo in future Caſes of the like Nature.

We are, &c.

E. Stephenſon.
John Bathoe.
Alexr. Higginſon.

Burdwan.
13th April, 1775.

REFERENCES TO N° 3. —— N° 8, 9.

Honourable Sir, and Gentlemen,

Since our Addreſs to you of the 13th Inſtant, on the Subject of a Copy of a Writ, iſſued from the Supreme Court of Judicature, againſt Rajah Cheyton Sing, a Bailiff has arrived here, inveſted with Power to ſeize his Perſon, and carry him to the Reſidency, for Contempt of Court, in not anſwering to the Summons; and as the Officer is poſitively directed not to accept Bail, it did not appear adviſeable to interfere further in ſo abſolute a Mandate. We have therefore, recommended the Rajah's immediate Compliance, and he accordingly proceeded from hence in Charge of the Bailiff. As this Meaſure ſeemed unavoidable, we hope it will prove an Exculpation on our Parts.

We are, &c.

E. Stephenſon,
John Bathoe,
Alex^r Higginſon,
John Roſewell,
Matt^w Dawſon.

Burdwan.
the 17th April 1775.

N° 8.

Extract of the Proceedings of the Governor General and Council, in Bengal, in their Revenue Department, the 3d May 1775.

READ Extract of Letter from the Attorney to the Honourable Company.

To Richard Sumner, Eſquire, Secretary to the Revenue Department.

Sir,

Your Letter of the 19th Inſtant came regularly to Hand, reſpecting the Rajah Cheyton Sing, in the Suit againſt whom I acted as Attorney for the Plaintiff; the Action was commenced in the Beginning of January laſt, which was near Three Months before I had the Honor of the Board's Appointment. As ſoon as I was informed of the Reſolution the Honourable Board had taken, of defending the Suit for the Rajah, I ſent for the Plaintiff, and requeſted him to employ another Attorney, telling him, I would no longer act for him; he accordingly did ſo; and I laid before Mr. Farrer, the Caſe in the Manner I was then directed. This Day, on hearing the Rajah was arrived, and in Cuſtody at the Sheriff's Office, I immediately applied to Mr. Farrer, to conſult on the neceſſary Steps to be taken for effecting his Diſcharge; and in conſequence waited on the Judge, then ſitting at the Court Houſe: And on my undertaking that Appearance to the Suit ſhould be entered for him, he was forthwith diſcharged.—I then acquainted him that he was at Liberty, and that in what I had done to effect it, I had acted under the Authority of the Board; that I was Attorney for the Honourable Company, and if he choſe it, would enter Appearance and defend the Suit for him; but he refuſed to ſuffer me ſo to do, ſaying he had then preſent an Attorney of his own, and did not want my Services; but then directed his Attorney to appear for him, which he accordingly did. But, as I apprehended the Board was deſirous of making this a Matter on which to try the Juriſdiction of the Court, I requeſted the Rajah's Attorney not to file his Plea to the Action, until I ſhould have the Honor to receive the Directions of the Board, whether they would wiſh it to be a Plea to the Juriſdiction or not, and he promiſed me he would not until he heard from me.

N° 9.

Extract of Letter from the Governor General and Council at Bengal, in their Revenue Department, to the Court of Directors, dated 20th January 1776.

Par. 34. WE muſt inform you, that the Rajah* of Biſſenpore having been taken and brought down to Calcutta, by a Capias for a Debt, has been ſeized ſince his Arrival here, and has been ſuffered to remain a Priſoner in the Common Gaol for ſome Weeks. We do not know in what Way a Zemindar can be conſidered amenable to the Juriſdiction of the Supreme Court, but in conſequence of his receiving a Stipend from Government; theſe Stipends were given to the Zemindars when diſpoſſeſſed of their Lands, and have been continued to thoſe who have been re-admitted to rent them themſelves, as is the Caſe with the preſent Zemindar.

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* Choiten Sing.

N° 10.

Extract of Letter from the Governor General and Council at Bengal, in their Revenue Department, to the Court of Directors; dated 20th March 1776.

Par. 12. THE Governor General having intimated to us, that he underſtood Permiſſion would be given by the Judges, on Application being made, for our Secretary to inſpect the Sheriff's Books; we directed him to procure a Copy of the Affidavit upon which Rajah Chiton Sing, the Zemindar of Biſſenpore, was confined, as we before acquainted you, in the Common Gaol. Permiſſion having been granted to inſpect the Affidavit upon which he was arreſted, you will find, he was ſeized as an Inhabitant of Calcutta, having been brought down by a former Writ from Biſſenpore to this Place.—We have accordingly directed the Affidavit to be inſpected upon which the former Writ was granted by Mr. Le Maiſtre; and are informed, that he was "ſaid to be ſubject to the Juriſdiction of the Court, for holding an Employment in the Revenue Department, under the Honourable Eaſt India Company, for which he receives a certain Salary by the Year or otherwiſe, for ſuch his Employment under the Honourable Company."—This we ſuppoſe can only allude to the Stipend which he enjoys under the Company.

13. The whole Proceeding againſt the Rajah of Biſſenpore appears to us replete with Irregularity and Injuſtice.—He is firſt ſeized at the Diſtance of Eighty Miles from Calcutta, upon Pretence that he is ſubject to the Juriſdiction of the Court, for holding an Employment under the Company; being then dragged down to Calcutta, he is arreſted as an Inhabitant of this Place, and thereby made ſubject to the above Juriſdiction, and caſt into the Common Gaol. If the firſt Ground of his Arreſt was not ſufficient to juſtify it, the ſeizing his Perſon, and bringing him to Calcutta, was a mere act of Violence, and could not, upon any Principle of Law or Juſtice, ſubject him to the Condition of an Inhabitant of this Place, where he never had a voluntary Reſidence: If it was ſufficient, there was no Neceſſity of deſcribing him as an Inhabitant of Calcutta, in order to juſtify his Impriſonment here; the aſſuming a Second Deſcription of the ſame Perſon, ſeems to us to invalidate the Firſt; either Way we ſee no Foundation for the Juriſdiction aſſumed over him. His Caſe, as a principal Zemindar receiving a Portion of the Rents of his Lands, under the Title of an Allowance or Penſion from the Company, whoſe Repreſentatives here, in their Character of Dewan, thought fit to transfer the Management to other Hands, involves that of almoſt all the Zemindars in the Country.

14. The Queſtion is, Whether the ſingle Circumſtance of their receiving a ſmall Portion of the Rent of their own Eſtates for their Subſiſtence, can juſtly be conſidered as conveying to them an Employment under the Company as Dewan; and whether ſuch Employment does legally ſubject them to the Juriſdiction of the Court? But even before this Point can be determined, the Parties are ſure to ſuffer every Diſtreſs and Oppreſſion with which the Attornies of the Court can eaſily contrive to harraſs and intimidate them. To all this they muſt ſubmit, as well as finally to the Juriſdiction of the Court, unleſs they are adviſed to plead to that Juriſdiction, and can prove that they are not ſubject to it; that is, unleſs a Native of Bengal can clearly underſtand an Act of Parliament, which even to ourſelves is liable to different Conſtructions; and alſo, unleſs he can prove a Negative.

23. A Warrant having been iſſued from the Supreme Court to apprehend the Zemindar of the 7 Anna, Diviſion of Tumlook, who is Farmer of his own Lands, on a Proſecution for Debt we directed Enquiry to be made, under what Deſcription the Complainant had ſworn that the Zemindar was an Object of the Juriſdiction of the Supreme Court; and find his Affidavit is, that the Zemindar abovementioned (named Anundenarain Roy) "is employed by the Honourable the United Eaſt India Company, as Collector to their Pergunnah of Temalook in Bengal."

24. In anſwer to our Application to the Committee, to aſcertain the Fact whether he was actually a Servant of the Company, or how he came to be deemed a Collector; they acquaint us, that he makes the Collection as Farmer, not as an Officer of theirs, or of Government, nor can he be conſidered as ſuch, unleſs from being in Receipt of the Revenues.

25. A Perſon named Ramconto Baboly, who was in Confinement in the Cutcherry of this Diviſion to anſwer Two Decrees, and who is alſo Security for the Arrears of the Pergunnah Shawpore, was ſeized by an Officer of the Sheriff, while under Charge of an Eſcort of the Peons returning from the Dufter of the Cutcherry, where he had been to adjuſt his Accounts.

29. We beg leave to point out to your Notice, the ſeveral Letters from the Gentlemen ſuperintending this Diviſion; particularly that accompanying Petitions from Five principal Zemindars, complaining of Warrants having been iſſued from the Supreme Court, and the Prejudice

ariſing from the Abuſe of the Authority veſted in the Perſons who are ſent to execute theſe Writs.—We could only inſtruct the ſeveral Petitioners to plead to the Juriſdiction of the Court. If the Plea ſhould be allowed in the Firſt Inſtance, it may perhaps be the Means of putting a Stop to the Grievance of which the Zemindars complain; but this is rather a Concluſion to be hoped for than expected; ſince it is evidently the Intereſt of the Attornies and Counſel on all Sides, to diſcourage ſuch Pleas, and to extend the Juriſdiction of the Court, to as many Objects as poſſible, in order to encreaſe their own Influence and Practice.

N° 11.

To the Honourable Warren Haſtings, Eſquire, Governor General and Council, Fort William.

Honourable Sir, and Gentlemen,

WE beg Leave to refer to your Conſideration, a Petition which has been laid before us by the Vakeel of Ragonundum Chowdry, Secretary for the Pergunnah of Chundeep.

We underſtand the Two Europeans there mentioned, are Officers of the Supreme Court of Judicature; and we tranſmit this Petition to you, as an Inſtance of the Inconveniences which attend this Juriſdiction being exerciſed on the Perſons employed on the Collections. In the preſent Caſe, we preſume the Zemindars are not amenable to the Power of the Supreme Court, not being Servants to the Company, or any European.

We have the Honour to be, with Reſpect,
Honourable Sir, and Gentlemen,
Your moſt obedient humble Servants,
C. W. Boughton Rouſe.
E. Purling.
J. Hogarth.
J. Shakeſpear.

Dacca,
30th October, 1775.

A true Copy.
R. Sumner,
Secrʸ

The Petition of Koſaul Chund, Vakeel of the Security for the Pergunnahs Chanderdeep, Jafferabad, and Ruffeanugger:

Shewing,

That Odul Sau, the former Naib, having preferred a Complaint for Debt againſt Sibnarrain, Zemindar, and Ramſunker Bukoy, Naib of aforeſaid Pergunnahs in Calcutta, has brought from thence Two Europeans to the ſaid Zemindar's Houſe, ſeized and confined the Naib, by which a Stop is put to the collecting of the Revenue, therefore prays a Perſon may be ſent to bring the aforeſaid Naib, together with the Plaintiff, to the Sudder, and Juſtice done.—If the Zemindar and Naib are carried to Calcutta on account of an old Debt, the Buſineſs of the Collections cannot be carried on to the Zemindars Gauaſtatis Rampers and Greand Ramgunga Sein, in Calcutta, who will anſwer to this Complaint.

(Signed) Koſaul Chund.

A true Copy.
R. Sumner,
Secrʸ.

N° 12.

Extract of Fort William Revenue Conſultations, 16th February, 1776.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council of Revenue at Fort William.

Honourable Sir, and Sirs,

WE now lay before you, Copy of an Arzee we have received from Anunderam, Zemindar of 7 Annas Tumlook; and beg Leave to obſerve, *the iſſuing Warrants by the Supreme Court, in the Manner there ſtated, muſt, as the Zemindar repreſents, not only terrify the People employed in the Collections, but throw every Thing into the utmoſt Confuſion, and at this critical Time of the Year, greatly prejudice both the Collections and the Salt Buſineſs.*

Peons under the Authority of the Court, appearing in the Cutcherry, as ſet forth by the Zemindar, muſt, no Doubt terrify People naturally timid in their Diſpoſition. We are but too well acquainted what Peons are capable of doing, veſted with Authority of ſuch a Nature; for which Reaſon, when we have Occaſion to ſummon People from the Mofuſſil, we are ever careful to direct them to apply, either to the Farmer, or the Naib of the Diſtrict, according to the 9th Article of the General Regulations.

The Zemindar, in his Arzee, having acknowledged himſelf indebted to Gopee Nazir, we beg Leave to refer it to your Conſideration, to adopt ſome Order for our Inſtructions how to conduct ourſelves in ſupporting him in his Collections, conſiſtent with the Duty incumbent on him to diſcharge his private Engagements. We are ſenſible the general Regulations have directed, that no Individual indebted to Government, ſhall be called on in the Mofuſſil for private Engagements, until thoſe of the Public are diſcharged; *but the Court of Judicature having thought proper to act contrary to this Regulation in the preſent Inſtance, we have no other Reſource but your Determination for our Guidance in this and ſimilar Caſes which may in future occur.—At the ſame Time we think it our Duty to repreſent, that we have for ſome Time paſt felt the fatal Effect of the Court's interfering in Revenue Matters, from the Backwardneſs of the Farmers to diſcharge their Kiſts, and our Officers in doing their Duty; and we muſt beg Leave to declare, that it will be utterly impoſſible for us much longer to conduct the Buſineſs of our Department, if our Officers, and People employed in the Collections, be not properly ſupported. And we make no Doubt heavy Claims of Remiſſion will be made on us, at the Concluſion of the Year, by this Zemindar, for the Damage he may ſuſtain by the Deſertion of his People at this critical Seaſon*; and we apprehend Government muſt be obliged to ſuſtain the Loſs; he proves it has been incurred through this Interference of the Court of Judicature.

We are, &c.

Fort William,
the 29th January, 1776.

Signed,
C. Goring.
J. Holme.
W. Marriott.
P. Moore.

From Anunderam, Zemindar of 7 Annas Tumlook.

I gave Security for Payment of the Rents of this Diſtrict, and have been obliged to borrow Money for the Diſcharge thereof; my Stipend is ſtopped for them alſo, and I am unable to expend any Part thereof otherwiſe; I have ever been attentive to, and employed on the Buſineſs of the Diſtrict, but have not been able to pay ſome private Debts, which I formerly contracted—in particular, I owed Gopee Nazir, including Intereſt, Rupees 8,500, of which I paid him 5,000 by the Month Augun, and gave Security for the Remainder, but was unable to pay it, from the great Advances which I was obliged to make to the Molungees, in the Month of Pooſe. Now Gopee Nazir has taken out a Warrant from the Supreme Court of Judicature, and I hear that Two or Three Peons have appeared with it in my Cutcherry, and have terrified my People employed in the Collections, by which Means the Collections and the Salt Buſineſs is interrupted. I write this Information that I may learn from you how to act. I hope that you will prevent theſe Interferences, that the Buſineſs of my Farm may be properly attended to; and when I have completed the Revenues, I will endeavour to anſwer the Merchant's Demand to the utmoſt of my Power.

A true Copy.

Signed Robt Holme,
Aſſt Secretary.

N° 12.

Extract of Fort William Revenue Conſultations, 1ſt March, 1776.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council of Revenue, at Fort William.

Honourable Sir and Sirs,

We beg Leave to tranſmit you Copies of Five Arzees, which we have juſt received from Rajah Indenarain, of 7 Annas Tumlook, Ranee Janecker of My Zadel, Govin Des, Keſhore Chund, Chowdries of Myhutty, the Zemindars of Pergunnah Mahamud Ameenpore.

The Arzees ſpeak ſo clearly for themſelves, they need little comment thereon; but we muſt beg Leave to obſerve, that we think the Peons ſent by the Supreme Court to the Zemindar of 7 Annas Tumlook, have acted in a moſt unjuſtifiable Manner, not only in prohibiting his Women *from Fire and Water*, but particularly in entering their Apartments, which have hitherto, by all Governments, been held ſacred. We hope, Gentlemen, ſuch unwarrantable Behaviour will be taken Notice of by you in the Manner it deſerves; as ſuch Acts of Violence, and Violation of the Hindoo Laws, muſt tend not only to diſgrace us, as a national Body, with the Natives, but likewiſe to breed a Diſguſt in their Minds, that may tend to the moſt ſerious Conſequences; ſetting aſide the inevitable Loſs it will be attended with, in the Revenue; which we have Reaſon to think will be great, from the heavy Balances ſtill remaining to be collected. In ſhort, Gentlemen, what with the ſeizing the Servants of Government, and confining them in Gaol, and what with the Confuſion the Moſuſſil is thrown into, we have the moſt melancholy Proſpect before us.

We have frequently troubled you on Subjects of the Nature; *and we beg Leave again to repeat, that from daily Experience we find the Authority with which you have inveſted us, is abſolutely, or very nearly, annihilated: Our Black Servants fear to do their Duty, and we know not how to compel them, from Reaſons above mentioned; and are almoſt tempted, from Deſpair of being able to conduct the Buſineſs of our Department, either to our own Credit, or your Satisfaction, to requeſt your Permiſſion to reſign our ſeveral Employs in the Revenue Branch; but as we conſider ſuch a Step might ſubject us to the Cenſure of diverting the Intereſts of our Employers at a Time when our moſt ſtrenuous Services are required, we are determined to perſevere, in the beſt Manner we are able, in our Endeavours for their Service; relying on your's and their Juſtice, not to hold us reſponſible for that Succeſs in their Affairs which we have not Power to procure.*

We are, &c.

Fort William,
26th January, 1776.

C. Goring.
W. Marriott.
P. Moore.

Rajah Indenarrain, Zemindar of the $\frac{7}{16}$ Pergunnah Tumlook.

I never was in the Service of any Engliſh Gentlemen, nor am a Pottah Holder in Calcutta, but One of the King's Zemindars; yet Gopy Nazir and Lalla Peniſram have entered a Proſecution againſt me in the Supreme Court, for an old Debt, and ſent after me a Warrant and Peons. They arrived while I was making a Tour of the Pergunnah in order to look after the Buſineſs, both of the Grain and Salt; *the common Door was ſhut, but they climbed up the Poſt, and made their Way in; they paſſed through Two Apartments, and ſeated themſelves in thoſe which contained the Women; they prohibited them from Fire and Water, and began to be abuſive.*

Coja Petroos had before proſecuted Perjenaut Doſs, the Naib Zemindar, for an old Debt, and ſent a Warrant; he was frightened, and abſconded, and all other Officers who tranſacted the Buſineſs of the Collections abſconded alſo: This was productive of prejudicial Conſequences to the Revenue and Salt. I am unacquainted with the Buſineſs and Nature of Courts, and ſhall not be able to Support my Cauſe in it. I am required to give a Pottah Holder of Calcutta for my Security. I live at a Diſtance from Calcutta, and have no one whom I can give for my Security there. An Huſtabood has been taken of my Zemindarry, and it is under Sequeſtration. I am diſtreſſed for the Means of Maintenance, much leſs can I ſupport an expenſive Suit in the Court. Should this Suit be proſecuted in the Supreme Court, neither my Life nor Zemindarry will be ſecure. I beg the Cauſe may be ſettled either in the Khalſa or in the Zella.

A true Copy.
Robert Holme,
Aſſis^{t}. Sec^{y}. (Signed).

Rannee Jankee, Zemindar of Pergunnah Myſaudil, Goomgur, &c. in Chuckla Hidgelee.

I and my Officers have been proſecuted for old Debts, and on various Accounts, in the Supreme Court, and Warrants have been iſſued againſt us, by which we are much diſtreſſed. One Warrrant has been procured againſt my Officer by Punchanau Ghoſe, a Reſident of Midnapore; who in the Year 1167, B. S. when Coſſim Ally Cawn was Nabob, was the Shiriſhladar of Men Attah Pollah Ahdahah. At this Time he came to Myſaudil, and embezzled a conſiderable Sum, after which he abſconded from the Pergunnah; but he has ſince drawn out Two or Three Memorials, which were never compared by any of my Officers, which he has produced in the Supreme Court, and procured Warrants againſt my Officers. I am required to give a Pottah Holder in Calcutta for my Security. I am poor, and all my Officers too are poor: How can I prevail upon a Pottah Holder in Calcutta to be my Security? If a Warrant is iſſued upon every Complaint of this Kind, it will be Confuſion to the Buſineſs of my Zemindarry. My Zemindarry has always been under your Care, and has never been ſubject to the Juriſdiction of the Court. My Servants know not how to act in a Court; I therefore requeſt you will order Matters which concern my Zemindarry, to be ſettled, either by the Council, or the Committee, or the Zella Adaulut.

A true Copy.
Rob^{t} Holme, (Signed.)
Aſſ^{t}. Sec^{y}.

REFERENCES TO N° 3 — N° 12, 13.

Govind Deo and Kiſhoer Chund, Chowdries of Pergunnah Mynaity, &c.

This Petition contains almoſt the ſame Words as that of the Zemindars of Pergunnah Mahomed Aumeenpore; but ſets forth, in Addition, that Shawna Chuckurvertee has taken out a Warrant againſt them, which they requeſt may be ſtopped.

A true Copy.
Rob^t Holme, (Signed.)
Aſs^t. Sec^ry.

Zemindars of Chuckla Hidgelee.

We are the King's Zemindars, and are neither in the Service of the Company or any Engliſh Gentlemen; We have never had any Practice in Engliſh Courts, nor can we form any Idea of it. Whenever a Warrant is taken out, we are required to give a Pottah Holder in Calcutta for our Security: We are not Pottah Holders; why then ſhould we expect a Pottah Holder will be our Security? yet Buſſunt Roy and Gundrip have entered Proſecutions againſt us, and procured Summonſes and Warrants, and diſtreſſed us beyond Meaſure. We therefore requeſt, that if any Man has a juſt Claim againſt us, he may prefer it either in the Khalſa or in the Adaulut; We will attend to anſwer it; we are terrified at the Thought of the Supreme Court.

A true Copy.
Robert Holme, (Signed.)
Aſs^t. Secretary.

Zemindars of Pergunnah Mahomed Aumeenpore, &c. in Chuckla Houghly.

We are the King's Zemindars, and *never have been either* in the Service of the Engliſh Company or of Engliſh Gentlemen; *nor are we Pottah Holders in Calcutta, but we attend here for the Purpoſe of paying the Government Revenue; yet Warrants have been iſſued againſt us by the Supreme Court, in conſequence of ſome old Bonds produced, which were executed by our Father and Grandfather.* We are unacquainted with Engliſh Courts. Whenever a Warrant is iſſued, we are required to give a Pottah Holder in Calcutta for our Security: We are not Pottah Holders in Calcutta, and why ſhould any Calcutta Pottah Holders be our Security? The Warrants iſſued againſt us, put us under Apprehenſions, even with regard to our Lives. Should any one have a juſt Claim upon us, he may obtain Redreſs, either by complaining in the Khalſa, or to the Zella Adaulut: We are ready to anſwer any Complaint there.

A true Copy.
Rob^t Holme, (Signed.)
Aſſ^t. Sec^ry.

N° 13.

Extract of Fort William Revenue Conſultations, 20th March 1776.

THE following Letters appearing to require the immediate Attention of the Board, they were ſent in Circulation for the Peruſal of the Members.

To the Honourable Warren Haſtings, Eſquire, Governor General, and Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,

We beg Leave to ſubmit to your Conſideration, Copy of a Petition, delivered to us by the Zemindar of Cherulleah and Muddadeah; ſetting forth, That his Naib has been apprehended, and conveyed to Calcutta, by a Warrant from the Supreme Court of Judicature: Likewiſe a Repreſentation of a ſimilar Nature from the Zemindar of Chunderdeep.

We can only repeat the Apprehenſions we have already expreſſed, that if the Officers of the Revenue are liable to be thus ſuddenly carried away from their Stations, the Buſineſs of the Collection muſt unavoidably be prejudiced.

The Members of Adminiſtration are unable to take any cautionary Meaſures till the Warrant has operated; and the conſequent Diſmiſſion of the Suit, in Caſes where the Proceſs is ſtopped upon the

Affidavit of the Defendant, that he never was employed in the Service of any Britiſh Subject, affords no Reparation for the Detriment which in the Interim has ariſen to Government; for we need not remark to you, the Difficulty of recovering a Balance from the inferior Landholders, when once the proper Seaſon for Payment is elapſed.

We are aſſured, by the Zemindar of Cherulleah and Moddedeah, that his Naib has never been employed in the Service of any Britiſh Subject; and Sudder Buckſby, the Naib of Chunderdeep, very likely took an Affidavit to that Effect, upon the Suit of Oodup Sien, before our Chief, by Commiſſion from the Supreme Court of Judicature.

We have furniſhed the Vakeels of the Petitioners with Letters to your Secretary, that they may be in Attendance to give you any further Information you may be pleaſed to require.

We have the Honour to be, with Reſpect,
Honourable Sir, and Gentlemen,
Your moſt obedient humble Servants,

Dacca,
December 21ſt 1775.

Signed { C. W. Boughton Rouſe,
J. Hogarth,
J. Shakeſpear.

The Arzee of Ramſunker Doſs, Vakeel to Hurnarain, Zemindar of Pergunnah Muddedea and Cherulleah, under Dacca.

Your Petitioner's Principal has purchaſed the above Pergunnah at public Sale, and has managed the Buſineſs of the Revenues ſince the Commencement of the Year 1182; he got Poſſeſſion of the Moſſuſul in the Month of Sacon, and has borrowed Money to diſcharge the Revenue. Now is the Harveſt Seaſon; a Peon has come from the Supreme Court of Calcutta, taken Bergnarum, Sheckdah of the above Pergunnah, to Calcutta, and confined him in the Gaol. The Buſineſs of the Revenue cannot be carried on without the Sheedar, eſpecially in the Harveſt. Your Petitioner therefore prays, Steps may be taken for the Releaſe of the Sheckdar, that he may proceed into the Moſſuſſul, in order that the Buſineſs of the Revenue may be carried on.

Signed { Ramſunker Doſs,
Gomaſtah to Hurnartain Chowdree.

William Cator,
Perſian Tranſlator.

No 14.

To the Honourable the Court of Directors for Affairs of the Honourable the United Company of Merchants of England trading to the Eaſt Indies.

Honourable Sirs,

Par. 1ſt. AN Event has juſt happened of ſuch Importance to the Welfare and Proſperity of this Country, and to the Rights and Intereſt of the Company, that we think it our indiſpenſible Duty to take the Firſt Opportunity to inform you of it.

2d. Commaul-ul-Deen, the Farmer of Hidgelee, having been committed in Execution by the Provincial Council of Revenue of Calcutta, for a Debt due from him to the Company, amounting to One hundred and Thirty-one thouſand Rupees, applied to the Judges for a Writ of Habeas Corpus, which was granted.—The Return made to the Writ, ſtated the Rights of the Honourable Company as Dewan of theſe Provinces, and all Circumſtances concerning the Adjuſtment of Commaul-ul-Deen's Debt, and the Impriſonment of the Debtor.

3d. Exceptions were made to the Return, as defective in Form; namely, that it did not expreſs a Power in the Provincial Council to commit without Bail or Mainprize, although Words to the ſame Effect were inſerted; viz. "A Power to ſeize, impriſon, and in Priſon to detain and keep, "the Perſon or Perſons ſo indebted and in Arrears, till he or they ſhall have paid or ſatisfied the "Rents and Revenues ſo due and in Arrear."

4th. Upon this Information, the Chief Juſtice and Mr. Juſtice Hyde ordered Mr. Cotterell, the Preſident of the Calcutta Council of Revenue, to accept of Bail for Commaul-ul-Deen's Appearance in the Dewannee Court; accompanying the Order with an Intimation, that the Bail ſhould not be nugatory, that Commaul-ul-Deen ſhould not be again taken into Cuſtody, until his Under-renter had been called upon to pay the Rents, and had proved inſolvent.

5th. Information of the above Proceedings having been communicated to us, by a Letter from the Calcutta Council, requiring our Orders for their Conduct, [illegible] took this important Affair into our most serious Consideration, and now beg Leave to send you a Transcript of those Two Days Consultations, together with Copies of all the Papers which have passed on the Occasion. To these we also beg Leave to add our own Observations.

6th. By the late Act of Parliament, the Ordering, Management, and Government of the Territorial Acquisitions, and the Revenues of Bengal, &c. are vested in the Governor and Council in the same Manner, to all Intents and Purposes, as the same [illegible] might have been exercised by the late President and Council, or Select Committee. We apprehend, that the Powers vested in us by the preceding Clause, are exclusive; consequently, that the Supreme Court of Judicature are not impowered to take Cognizance of any Matter or Cause dependent on or belonging to the Revenue, the Ordering, Management, and Government of which, belong solely to the Governor General and Council.

7th. This general Construction of the Act seems to us to be supported by the following Considerations:

1st. That there is no Connection between the Supreme Court and those of the Dewannee, but that they are entirely independent of each other.

2dly. That there is no Clause or specific Provision in the Act, to impower the Supreme Court, or any of the Judges thereof, to confirm, annul, qualify, or otherwise interfere, in the Acts or Proceedings of the Council of Revenue in the Discharge of the judicial Powers annexed to their Office.

3dly. That there is an Inconsistency in the Acts of the Judges, in ordering the Farmer to be discharged from Confinement, on Bail to be given to the same Court, and to appeal before it; because they hereby admit the Jurisdiction of the Court, whose Decree they supersede, whilst at the same Time, by acknowledging the Authority of the Dewannee to be competent as to the Debt, they tacitly confess, that the Renter was not, in this Case, intitled to the English Laws, by which alone the Judges can act, and by virtue of which alone he could be admitted to Bail.

4th. That the same Powers which by the immemorial Custom of the Country Government were annexed to the Office of Dewan, have been exercised by the Governor and Council of this Presidency for some Years before the Appointment of the present Governor General and Council; and that Parliament, in this Respect, has made no Alteration in the Rights of the Company, or in the Power heretofore exercised by their Representatives.

5th. That the Interference of the Supreme Court or Judges, in Matters merely of Revenue, is an Assumption to themselves of the Rights of the Dewan of the Provinces, and deprives the Governor General and Council of these Powers, which are solely and independently vested in them by Parliament; for these and other Reasons we conclude, that the Supreme Court of Judicature have no Jurisdiction whatsoever in Matters of Revenue; consequently, that their Proceedings in the Release of Commaul-ul-Deen, exceed the Limits of their Jurisdiction and are against Law. Setting aside the Consideration of our strict respective Rights, we are at a Loss to assign the Motives which induce the Chief Justice to direct the President of the Council of Revenue to call on the Under-tenant before Demands were made on the Principal's Securities, according to the established Usage: Such a Declaration being contrary to the Forms and Practice of the Dewannee Court, must be founded upon some general Principles of Law, with which we are unacquainted, and which ought not to be admitted in the Collection of the Revenues.

8th. It appears to us, That our overlooking the principal Debtor and his Security, both of whom have specific Engagements with the Company, and transferring our Demand to the Under-tenant, who is not bound by such Engagements, would be a Measure equally repugnant to Justice and good Policy.

9th. If this Doctrine should be admitted, every Under-renter might claim, with more Propriety, the Benefit of the English Law; by which we should probably be referred back again to the principal Farmer and his Security; the same Subterfuges would continue to be practised by the several Parties, in Collusion with each; your Governor and Council would be involved in endless Perplexities, and probably defeated in every Effort to recover the Balances due to the Company.

10th. These, and other Arguments, were advanced by a Majority of your Council, with a View to assert the Powers vested in the Government, to preserve your just Rights, and to shew the dangerous Consequences that must attend the Power assumed by the Judges, to release a Farmer committed by the Authority of the proper Court for a Debt to the Company. It was the unanimous Opinion of the Majority, that we ought to direct the Provincial Council to summon again the Farmer and his Security before them, and to keep them in Custody until they had satisfied the Demands

mands

ments of Government; and alſo, that they ſhould give no Attention to any Order by the Supreme Court, or any of the Judges, in Matters which ſolely concern the Revenue.

11th. No Reſolution, however, was taken in conſequence of that Opinion; One of the Members of the Majority having declared, that he ſhould not give his Aſſent to either of the Meaſures propoſed, unleſs they were ſupported by the Concurrence of the Governor General. We are ſorry to inform you, that the Governor General has refuſed his Aſſent to both of them; and that conſequently the Opinion has remained without Effect.

12th. Whilſt the Members of the Majority were contending for the Preſervation of the excluſive Rights and Powers veſted in them by Parliament, the Governor General maintained the Rights and Powers of the Supreme Court; againſt whoſe Acts there could be no Relief, but by inſtituting a Suit in that Court, and by an Appeal to the King in Council.

13th. We refer you to our Minutes, for our ſeveral Arguments on this moſt important Event; making it our unanimous Requeſt, that if you ſhould agree with the Majority of your Council, in Opinion that the Supreme Court of Juſtice have exceeded the Limits of their Juriſdiction, and invaded the Powers veſted by Law in the Governor General and Council; you will lay a State of the Proceedings before the King's Miniſters, in order that the Governor and Council of the Provinces may receive ſuch Relief and Support in the Execution of the Truſt repoſed in them, as His Majeſty in His Wiſdom may think fit.

We are with great Reſpect,
Honourable Sirs,
Your moſt faithful
humble Servants,

Fort William,
16th September 1775.

Warren Haſtings.
J. Clavering.
Geo. Monſon.
Richd Barwell.
P. Francis.

N° 15.

Governor General's Minute.

I Muſt requeſt the Board will come to ſome Determination, in what Manner the Controul of the Nizamut Adaulut ſhall hereafter be conducted. Hitherto, at the Requiſition of the late Council, I myſelf undertook this diſagreeable Duty, which conſiſted merely in reviſing and giving my tacit Sanction of the Sentences of the Adaulut, and the Warrants of the Naib Nazim, and in urging the Attention of the Officers to their Duty. This Duty, trifling as it may ſeem, I find too heavy for me to diſcharge, and the Reſponſibility attached to it, too dangerous for me to have any further Concern in it; I therefore deſire to relinquiſh it.

Agreed, it remain for Conſideration.

N° 16.

Extract of the Proceedings of the Governor General and Council in the Revenue Department, the 22d May, 1775.

THE Governor General propoſes, That, as the diſpatching the Northumberland he hopes will leave a leſs Weight of Buſineſs on the Hands of the Board than that with which they have hitherto been loaded (and as the Suſpenſion of the Buſineſs of the Sudder Dewannee Adaulut may prove a greater Obſtruction to Juſtice) the Board ſhould ſet apart every Wedneſday, as formerly, for the regular Meeting in this Court; that it may be made a rule of the Court, that Two Members may be ſufficient to compoſe it; and in caſe of a Difference of Opinion on any Cauſe, a full Court may be ſummoned, at any Time, for the Re-hearing of it: He will gladly take his Share in this Attendance, which may be ſo continued as not to impede other Buſineſs. If this be agreed to, he will further propoſe, that public Notice be given, in the uſual Manner, that the Court will be open again, and aſſemble regularly every Week; that ſuch Perſons as have Appeals to make, may attend.

Mr. Francis,

I think, that before the Court of Sudder Dewannee Adaulut ſhall aſſemble, we ought to apprize the Judges of our Intention, in order that if our Proceedings be liable to any Objection on their Part, from a claſhing of Juriſdiction, or otherwiſe, they may previouſly apprize us of it; otherwiſe it may happen that our Decrees, which, from the Nature of the Inſtitution, ought to be final, may be appealed from to the Supreme Court, and reverſed there. The Court of Sudder Dewannee Adaulut is ſuppoſed to be the laſt Reſort; if any Appeal from its Decree ſhould, in any Inſtance, be received by the Supreme Court, I conceive, that our Juriſdiction would be thereby, ipſo facto, aboliſhed.

Mr. Barwell.

I agree to the Governor's Propoſal.

The Honourable Mr. Monſon.

I underſtand the Dewannee Sudder Adaulut, to be a Court of Appeal from which there is no Reſort. As the Cauſes which come before this Court may afterwards be carried into the Supreme Court of Judicature, I think this Court totally unneceſſary, as appeals from the Provincial Dewannee Adauluts may be made to this Board, and they may go under an Examination here; and if this Board think proper to confirm the Decrees of the Provincial Councils, I think their Authority cannot then be called in Queſtion by the Supreme Court of Judicature.

General Clavering.

The Court of Sudder Dewannee Adaulut being a Court of Appeal from the Courts of Adaulut eſtabliſhed in the Country, its Deciſions ought to be final. Sir Elijah Impey, as I underſtand, has declared, that it would be dangerous to bring the Powers of the Supreme Court and the Supreme Council into Diſcuſſion; and in a Letter received from the Judge yeſterday, they have acquainted us, that they will oblige all Perſons who apply for Writs, to ſwear, that the Perſon againſt whom the Writ is intended to be iſſued, is ſubject to the Juriſdiction of that Court; that is to ſay, that he ſhall ſwear to the Facts or Circumſtances by which the Perſon become amenable to the Court. If they acted conformably to this Declaration, I cannot conceive in what Manner they have deemed many Zemindars, who have been arreſted to be brought to Calcutta, to come under that Deſcription; if they conſider a Perſon to be a Servant of a Britiſh Subject, becauſe he received a Penſion from the Government, they may equally allow a Writ to be iſſued againſt the Nabob, or the King Shaw Allum. I therefore think, that the Court is uſeleſs, till the Juriſdiction of the Supreme Court be declared, that it will not, under any Pretence whatever, interfere or receive Complaints upon Matters relative to the Revenue, whereupon either the Courts of Adaulut may have decided, or which finally be ſo by the Court of Sudder Adaulut. If the Members of this Council ſhall be of Opinion, that the Judges will give us any Satisfaction upon that Subject, I ſhould adviſe that Mr. Francis's Propoſition be adopted, of writing to the Judges, to obtain their Information from them.

Governor General.

I conceive the Rule eſtabliſhed by the Judges of the Supreme Court, the moſt, if not the only, effectual Means of preventing Suits being brought before them, which do not appertain to their Juriſdiction; but I apprehend it will not immediately produce its good Effects. All Innovations, of whatever Utility, require Time to bring them to Perfection, to be univerſally underſtood, and to be guarded by ſubſidiary Regulations, againſt the Inconveniencies to which they may be liable in their firſt Form. In the Caſe of a Zemindar, againſt whom Applications may be made by a Writ in the Supreme Court, the Plaintiff, as the Proſecutor, may be obviouſly miſled by the Zemindar's Monthly Stipend, or he may deſignedly miſconſtrue it, and under Pretext of his being a Servant, and receiving Wages of the Company, may take both accordingly: It will therefore remain to be decided, whether ſuch a Stipend infers the Poſſeſſor of it to be a Servant of the Company; to me, it appears that it cannot, by any Conſtruction, be ſo underſtood and in the firſt Inſtance on which it ſhall come into Debate before the Court, their Deciſion upon it will ſerve as a Precedent for all future Caſes of the like Nature; but until it is ſo determined, it appears to me indiſpenſibly neceſſary, that every Perſon againſt whom Complaint ſhall be made to the Supreme Court, while ſuch a Doubt remains, whether he is or is not amenable to its Juriſdiction, muſt appear before it, either in Perſon or by his Attorney, and plead to the Juriſdiction before the Cauſe can be diſmiſſed; otherwiſe every Man might refuſe to ſubmit to their Authority. I do not mean this as an Objection to Mr. Francis's Propoſition, but to give my Sentiments of the Proceedings of the Court, in the Caſes alluded to by the General.

Agreed, that the Judges of the Supreme Court of Judicature be written to as follows:

To Sir Elijah Impey, Knight, Chief Juſtice, and the Judges of the Supreme Court of Judicature at Fort William in Bengal.

Gentlemen,

From the firſt Eſtabliſhment of the Supreme Court of Judicature in Calcutta, we were apprehenſive that Difficulties and Inconveniencies might poſſibly ariſe in the general Adminiſtration of Civil Juſtice, and in the Collection of Territorial Revenues of theſe Provinces, from a claſhing of the Juriſdiction between the Supreme Court and the Dewannee Courts of Adaulut, which are inſtituted under the Authority of the Dewan, for hearing and determining all Civil Suits whatever between Native and Native, and all Cauſes relative to the Revenue; our Doubts on this Subject had a more particular Relation to the Court of Sudder Dewannee Adaulut.

We beg Leave to inform you, that this Court was instituted to receive and determine Appeals from the provincial Dewannee Adaulut; that the President, with Two Members of the Council, presides therein, attended by the Dewan of the Khalsa, the Head Canoongoes, and other Officers of the Cutcherry. This Court of Appeal being composed of the Members of the Council, it necessarily follows, that it can be held no where but in the Town of Calcutta; for that Reason, it may appear to assume and exercise judicial Powers inconsistent with the local Jurisdiction of the Supreme Court. Under those Doubts, and under the Uncertainty, whether our proposing any Questions to you, concerning the Limits of your Jurisdiction, might not be liable to Objection, we have hitherto thought it adviseable to suspend the Sittings of the Dewannee Sudder Adaulut; but as on the one Side a farther Suspension of the Proceedings of that Court would defeat the Purposes for which it was instituted, and operate, in Effect, to the total Abolition of the Court; and as on the other, we know not how far we can safely and legally sit as Judges in a Court of Appeal, whose Decrees must from their Nature be final; we have thought fit, before we came to any Determination, to request your Opinion, Whether, supposing the above Court should resume their Proceedings, an Appeal from their Decrees will lie to the Supreme Court? whether the Cognizance of any Cause brought by Appeal before us, can be removed by your Authority to the Supreme Court of Judicature? or, whether the Decrees of the Court of Dewannee Sudder Adaulut will justify the Ministerial Officers of the Court in carrying those Decrees into Execution?

Considering the Principles on which this Court was instituted, and the Power with which it was vested to decide in the last Resort; we conceive, that if an Appeal from its Decrees should in any Instance be received by the Supreme Court, or if a Cause may be removed from thence to the Supreme Court, or if our Officers are liable to Prosecutions for carrying our Decrees into Execution; in all or any of these Cases, the Jurisdiction of the Court of the Dewannee Sudder Adaulut would be, ipso facto, abolished.

We are, &c.

Fort William,
the 23d May, 1775.

The Honourable Mr. Monson,

I object to the Letter; as thinking the Reference unnecessary, and being of Opinion that the Business of the Dewannee Sudder Adaulut can be better executed by the Revenue Board.

N° 17.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, 20th October 1775.

THE Secretary lays before the Board, the Bill for the Charges of the Dewannee Adaulut for the Month of September last, which has been presented to him by the Officers of the Cutcherry, amounting to [illegible] Rupees, exclusive of the Superintendant's Allowance; and request the Board's Orders, whether it should be discharged or not.

General Clavering.

Upon the Request made to us by the Officers of the Dewannee Cutcherry, for the Discharge of their Monthly Allowance, I must desire that the Board will take it into their Consideration, Whether the Allowances for the Establishment of the Court, and for that of the Sudder Dewannee Adaulut, should be any longer continued; seeing that it is near a Twelve Month since the Functions of both one and the other Court have been suspended?

Mr. Francis.

I think the Expence attending the Establishment of these Courts, is useless, and that they ought not to be continued after the End of this Month.

Mr. Barwell.

I am of Opinion the Courts of Dewannee Adaulut should be continued.

Mr. Monson.

It at present appears to me unnecessary to continue these Courts. I therefore think the Expence of them should cease on the First of next Month.

General Clavering.

I cannot consent to continue Two Establishments, which are become useless.

Governor General.

I should have been glad to have avoided the Question now brought before the Board, and tacitly ſpecially to have left the Form and Appearance of the Two Dewannee Courts, although the Powers of them might be ſuſpended for a few Months longer; the Expence is not great, and the Minds of the People would be kept at eaſe, in the Hopes that the Functions of the Court would at ſome Time be reſumed: I object to the Abolition of them, becauſe it will cut off thoſe Hopes and leave the Inhabitants of this great commercial City without a Reſource, in Caſes which cannot, either from their Nature or their Number, be decided by the Supreme Court of Juſtice.

Reſolved, That they be aboliſhed the 1ſt November, and that the Priſoners and Cauſes now depending in the Provincial Dewannee Adaulut of Calcutta be conſigned to the Charge of the Provincial Dewannry Adaulut of the Diviſion of Calcutta, together with the Proceedings that regard the Priſoners.

N° 18.

To the Honourable the Court of Directors for Affairs of the Honourable United Company of Merchants of England trading to the Eaſt Indies.

Honourable Sirs,

WE think it highly important to your Service, that you ſhould be informed, as early as poſſible, of the Proceedings of the Supreme Court of Judicature, in an Action brought by Mr. John Stewart, late Secretary of this Council, againſt Mr. Auriol, our preſent Secretary, for 1800 Sicca Rupees, the Amount of One Month's Salary annexed to that Office, and received by Mr. Auriol ſince Mr. Stewart's Admiſſion.

On the 23d Inſtant Mr. Stewart's Attorney addreſſed a Letter to Mr. Bruere, our Aſſiſtant Secretary, requiring him to produce in the Supreme Court, on the 28th following, ſundry Papers belonging to the Records of the Office, and ſaid to be neceſſary for the Information of the Court in the Cauſe abovementioned. You will obſerve, that the Papers required by the Attorney, were the whole of Two general Letters from you to the Preſident and Council in 1770 and 1771—a Part of the Proceedings of the late Preſident and Council—the whole of the Inſtructions ſent out by you to the preſent Governor General and Council—and a Part of our Conſultations.

A Majority of the Board reſolved not to comply with the Requiſition. The Cauſe came on Yeſterday—Our Aſſiſtant Secretary attending, in conſequence of a Subpœna, was aſked by the Chief Juſtice, Whether he was ready to produce the Papers required by Mr. Stewart's Attorney?—Upon his anſwering, That he could not produce any Papers belonging to the Office, without the Orders of the Board; and that the Board had declined giving ſuch Orders, the Chief Juſtice declared, That it was a poſitive Denial of Juſtice; That if the Reſolution of the Board was carried by a Majority, the particular Members who voted againſt complying with the Attorney's Requiſition were liable to ſeparate Actions to Damages, on the Part of the Plaintiff; and inſiſted on Mr. Bruere's informing the Court, what was the Opinion of each Member at the Board.—Mr. Bruere accordingly declared, that the Governor General, Colonel Monſon, and Mr. Francis, had voted in the Negative; that Mr. Barwell had voted in the Affirmative; and that General Clavering had given no Opinion. The Court, on receiving this Information, thought fit to order their Prothonotary to attend us, with the following Meſſage; "That the Court is given to underſtand, that the Board refuſe granting Co-
"pies of the Papers mentioned in a Notice delivered to Mr. Bruere by Mr. Jackſon, as Attorney
"for Mr. Stewart, and which are required to be produced on the Trial of a Cauſe now before the
"Court, between John Stewart, Eſq; and James Peter Auriol, Eſq;—That they cannot go on with
"the Trial of the Cauſe, without having them produced in Court—That the Court is apprehenſive,
"that this Honourable Board denied producing theſe Papers, with the Idea that the Application
"came from the wrong Quarter; and that Notices of this Nature are always delivered by the At-
"torney—That unleſs theſe Papers are produced immediately, the Cauſe muſt be put off for
"want of them, till To-morrow."

The preceding Meſſage being explained to us by the Prothonotary, as a Requiſition on the Part of the Supreme Court, we agreed to comply with what we conceived to be the real Intent and Object of it—Ordered Extracts to be prepared of ſuch Parts of the Papers demanded, as related to the Cauſe depending before the Court.

On the Return of the Prothonotary with our Reply, the Chief Juſtice remarked, that he made a Miſtake in delivering a Meſſage from the Court to the Council—That it was not meant as a Requiſition from the Court, but only as an Intimation to the Governor General and Council, that they would be liable to an Action, if the Papers required by the Plaintiff's Attorney were not produced in Court.

It ſeems to us, Gentlemen, that the Proceedings of the Supreme Court in this Caſe, and the Declarations made by the Chief Juſtice from the Bench, conſtitute a Precedent of the greateſt Conſequence to the Conduct of your Affairs here, and which it will be neceſſary for you to take into your moſt ſerious Conſideration. According to the Doctrine delivered from the Bench, it is unlawful for your Governor and Council to refuſe to produce, in open Court, any Papers depoſited in our Secretary's Office, whenever they ſhall be demanded by an Attorney, as neceſſary for the Information of the Court, in any Cauſe depending before them. This Doctrine is general and indefinitive; it makes no Diſtinction in the Nature of the Papers to be produced; and leaves no Diſcretion to us to judge of the Conſequences which may attend their being divulged. It depends on the Caprice or Ignorance of an Attorney, to expoſe the Tranſaction of your Affairs in every Branch, and even your moſt ſecret Inſtructions to us, to the Curioſity and Comments of every By-ſtander in a public Court—perhaps to the avowed Enemies of the Company and Nation. If your Governor and Council, alarmed at the probable or poſſible Conſequences of ſuch a Publication of your Records, ſhould heſitate or refuſe to comply with the Attorney's Requiſition, they are charged with the poſitive Denial of Juſtice, and are ſaid to be liable to perſonal Actions for Damages. A Diſtinction is made between the Acts of the Majority and thoſe of the Council, notwithſtanding it is expreſsly provided by Law, that the Governor General and Council ſhall be bound and concluded by the Opinion and Deciſion of the major Part of the Members preſent; and the Chief Juſtice obliges our Aſſiſtant Secretary to declare, in open Court, the Opinion given by each Member in Council, in order to found an Action againſt ſuch particular Members as compoſed the Majority.

Unlearned as we are ourſelves, and unaſſiſted by Counſel appointed under your Authority, we do not pretend to determine how far the Opinions and Proceedings of the Supreme Court on this Occaſion are, or are not, conformable to Law; on this Point we preſume you will think it adviſeable and neceſſary to conſult the higheſt legal Authorities in England. With reſpect to the Conduct of your Affairs in this Country, and of the Government committed to our Charge, we apprehend it to be ſelf-evident, that under the Approbation of the Doctrine now delivered, and eſtabliſhed, by the Supreme Court of Judicature, the Members of this Council cannot act with Vigour, with Secreſy, with Freedom of Debate, or with perſonal Safety. It is not in the Nature of Things, that a Council, whoſe Reſolutions are liable to be immediately expoſed to public View, can act with Firmneſs and Deciſion. We are a Council of State, without the Poſſibility of keeping any Part of our Proceedings ſecret; and, as Individuals, we are all, or the Majority of us, liable to anſwer perſonally to any Man, who ſhall think he ſuffers Damages by a Reſolution of the Board. You will judge for us, Gentlemen, how it is poſſible for us to execute the Truſt repoſed in us by Parliament, or to obey our Inſtructions, while ſuch Difficulties are thrown in our Way, and while we are expoſed to ſuch Conſequences from the faithful Diſcharge of our Duty. We ſubmit it to your Wiſdom, to take whatever Meaſures you may deem neceſſary for the Preſervation of a Degree of Dignity and Authority in this Council, equal to the Services expected from us.

Until we can receive your Inſtructions on this important Subject, we ſhall obſerve the utmoſt Caution in all our Proceedings, wherever it is poſſible for them to be queſtioned by the Supreme Court of Judicature. We are ſenſible, that exceſſive Caution is a Principle inconſiſtent with the Diſpatch even of ordinary Buſineſs, and much more ſo with that Vigour with which every Government is ſometimes obliged to act for the public Good. Yet this is the Line which, in the preſent Circumſtances, our Attention to your Intereſt, and to our own Safety, will equally oblige us to procure. As we wiſh to obſerve the utmoſt Candour towards the Chief Juſtice and Judges of the Supreme Court of Judicature, in all our Proceedings which may reſpect their Conduct, we have ordered a Copy of this Letter to be delivered to them, for their Information.

We are, with Reſpect,
Honourable Sirs,
Your moſt faithful
humble Servants,

Fort William,
29th Nov. 1775.

Warren Haſtings.
J. Clavering.
Geo. Monſon.
Rich^d Barwell.
P. Francis.

N° 19.

To the Honourable the Court of Directors of the United Company of Merchants of England trading to the Eaſt Indies.

Honourable Sirs,

HAVING the moſt perfect Reliance in the Candour and Juſtice of your Honourable Board, and being fully perſuaded that you will readily afford us every Aſſiſtance, towards the due Execution of the Powers veſted in us by His Majeſty's Charter, we cannot help ſubmitting to your Conſideration, a Matter which (you will ſee by a Reference to your Correſpondence) has been the Subject of ſome Altercation between us, your principal Servants at this Settlement, from a Miſconſtruction (as we conceive) of your Orders. Your Governor General and Council openly avowed a determined Purpoſe of watching over our Conduct, as Magiſtrates, with an attentive Eye; and claim a Right of entering their ſeveral Opinions, concerning Acts done by us in our judicial Capacity, upon their Conſultation of your Information, as it is ſaid, but which the late Act requires ſhall be tranſmitted to One of His Majeſty's Principal Secretaries of State; at the ſame Time refuſing to us Copies of ſuch Minutes, whereby we might be enabled to deny Facts accidently miſtated, or to rectify any erroneous Concluſions which might be drawn therefrom.

As we apprehend it to be clear, beyond any Doubt, that your Servants here have no direct Right of controlling any of our Proceedings, we cannot but conſider any ſecret Animadverſions of this Nature upon our Conduct, as an indirect, and conſequently an illegal, Interference with our Authority; tending to weaken that Independency without which it is impoſſible to adminiſter impartial Juſtice, and to procure endleſs Jealouſies between Two Bodies, on whoſe Union the public Welfare greatly depends.

To execute the Office of Juſtice of the Peace, in a Place of ſuch conſiderable Magnitude, and ſo full of Inhabitants, as the Town of Calcutta, (a Taſk not uſually expected of Judges, but the whole Burthen of which we have taken on us, for the Benefit of the Settlement, becauſe the Governor General and Council have not acted in that Office) and to decide all Caſes of Property and perſonal Injuries between Man and Man, without the Intervention of a Jury, are Duties of the moſt invidious Nature. The Conduct of the Magiſtrate, inſtead of being ſcrutinized with a too jealous Attention, and ſubjected to ſecret Reprehenſion, requires the moſt ample Confidence, and the full Protection and Aſſiſtance of every Branch of Adminiſtration. He muſt not be reſponſible for involuntary Errors, or required to enter into a Juſtification of his Conduct by every petulant Suitor, who thinks proper to arraign it; yet this muſt be perpetually the Caſe, if it is once underſtood that the Governor General and Council are permitted to exerciſe that Power which they now claim. Every diſappointed Suitor would become a Petitioner to that Board, which would, in fact, be a Court of Appeal from our Deciſions, hearing only one of the Parties; and inflicting on us ſecret Cenſures, which muſt at leaſt render our Character dubious in the Eyes of His Majeſty's Miniſters, for a conſiderable Length of Time before we can have any Opportunity to enter upon our Defence. Add to this, that the continual Obligation of defending every Act we do, however regular, which theſe Gentlemen (ignorant of the Grounds of our Proceedings, and not ſuppoſed, by their Stations, to be much converſant with Law) may conceive to be wrong, muſt keep us in a perpetual State of Diſquiet and Uneaſineſs, and totally take away that Reſpect and Veneration which the People ought to entertain of the Perſons and Judgments of their Magiſtrates; of which, at preſent, we feel ourſelves to be in full Poſſeſſion, and which we attribute, in a great Meaſure, to that Confidence neceſſarily ariſing from ſeeing that our Judgments have, in every Inſtance, been unanimous, whatever Repreſentation may be made to the contrary.

For theſe Reaſons, we take the Liberty of requeſting that you will ſend Orders to your Governor General and Council at Fort William, for the future not to interfere with our Conduct as Magiſtrates, either in or out of Court; or to canvaſs our Judgment or Proceedings by public Letters, or by Minutes entered upon their Conſultations; except they ſhould have Reaſon to found a direct Charge againſt the Supreme Court, or any Juſtice thereof; and then we requeſt you will direct that they do tranſmit to the Court, or to ſuch Juſtice, true Copy of ſuch Charge, before the Departure of the Ships by which it is to be tranſmitted to Europe, that the Court, or ſuch Juſtice, may have an Opportunity of explaining their Conduct to His Majeſty, through His Miniſters, by the ſame Conveyance.

We have the Honor to be,
Honourable Sirs,
Your moſt obedient and humble Servants,

Fort William,
2d Auguſt, 1775.

E. Impey.
R. Chambers.
S. C. Le Maiſtre.
J. Hyde.

N° 20.

REFERENCES TO Nos. 20, 21.

N° 20.

To Sir Elijah Impey, Knight, Chief Justice.

Robert Chambers, } *Justices of the*
Stephen Cæsar Le Maiſtre, } *Supreme Court*
John Hyde, } *of Judicature.*

Honble. Sirs,

WE have been favoured with your Letter of the 28th ultimo, thanking us for the Senſe we had ſhewn of a Paper (which you ſay contained a falſe and malicious Charge againſt you) in ordering it to be burnt for a Libel; and deſiring to be furniſhed with a Copy of that Paper, and of ſuch of our Minutes upon the Occaſion as related to it, in which you apprehend you muſt be intereſted; alſo incloſing ſome Papers to be recorded in our Conſultations.

We ſhall be much obliged to you, if you will be pleaſed to acquaint us from whom you receive the imputed Information which appears to have been conveyed to you on this and other Occaſions, of the Proceedings of this Board, in our Secret Department. Such Communications cannot regularly be made to you, but by the Authority of the Board; nor can they be obtained without a breach of Truſt in ſome of our Officers, which we are perſuaded you would not encourage.

We do not think ourſelves at Liberty to communicate to you the Minutes which may have paſſed on the preſent Subject, as ſuch Minutes are drawn up ſolely for the Information of our Superiors. With reſpect to the Libel, it is not poſſible for us to furniſh you with a Copy of that Paper, having ordered the Original and Tranſlations to be deſtroyed, and no Copy to be kept of either; the Libel being expunged from our Conſultations. We do not think it neceſſary to enter thoſe Papers upon our Records, which you ſent us for that Purpoſe, and which you ſay contain a direct and perfect Refutation of it.

If you deem it neceſſary to appriſe His Majeſty and His Miniſters, as well as the Honourable Eaſt India Company, of the high Reputation which you inform us the Supreme Court of Judicature has acquired in this Country, we muſt leave it to you to follow the Method which you have already adopted in other Inſtances, of addreſſing yourſelves immediately to the Court of Directors.— We beg leave to return you the Papers incloſed in your Letter to us, and are,

Hon^{ble}. Sirs,
Your moſt Obedient humble Servants.

Signed
Warren Haſtings. George Monſon,
J. Clavering. R^{d} Barwell.
P. Francis.

Fort William,
the 4th Sept. 1775.

N° 21.

To the Honourable Warren Haſtings, Eſquire, Governor General, and Gentlemen of the Council.

Honourable Sir, and Sirs,

A PAPER, containing a falſe, ſcandalous, and malicious Charge againſt the Judges of the Supreme Court, produced at your Board, having been by you declared a Libel, and ordered to be burnt by the Hands of the Common Hangman, we return you our Thanks for having ſhewn ſo due a Senſe of this Outrage to public Juſtice. But as we muſt be intereſted as well in the Minutes introducing and condemning the Paper, as in the Paper itſelf, we find ourſelves obliged to deſire that you will furniſh us with a Copy of the Libel, and of ſuch Minutes which relate to it, as ſtand on your Conſultations, and muſt therefore be conveyed to England, that we may judge whether they contain any Matters neceſſary for us to take Notice of.

Knowing the Satisfaction His Majeſty and His Miniſters, as well as the Honourable Eaſt India Company, who are deeply intereſted in the due Adminiſtration of Juſtice, muſt receive from the high Reputation which the Supreme Court has acquired in this Country, we thought we owed it to ourſelves and the State, to tranſmit to you the incloſed Papers, that they may ſtand recorded on your Conſultations, which we think peculiarly proper at this Time, as by promulging the univerſal Senſe of this Settlement, in relation to our Conduct, they are a direct and public Refutation of the Libel, and corroborate ſuch of your Minutes, as tend to vindicate our Reputations.

We are,
Honourable Sir and Sirs,
Your moſt obedient humble Servants.

Fort William,
28 Auguſt, 1775.

Signed { E. Impey.
Robert Chambers.
J. C. Le Maiſtre
John Hyde.

N° 22.

Calcutta, 9th May, 1775.

Honble. Sir, and Sirs,

BEFORE your Meſſage of Yeſterday was delivered to me by the Sheriff, I had been informed, that the Mahah Rajah Nundcomar had, on account of his Religion, refuſed to take Suſtenance. I immediately ſent my Moonſhy to him, to acquaint him, that I had given ſtrict Orders to the Keeper of the Priſon, that his Confinement ſhould, in every Reſpect, be made as eaſy as poſſible to him; and to know, from him, from whence his Scruples aroſe. The Anſwer returned to me was, that he could not eat or drink in a Room where Chriſtians or Muſſelmen had been. I thought it proper to refer his Caſe to the Judges who committed him, merely as his Suggeſtion; and to ascertain the Fact, I ſent to the Pundits, who are the Keepers of the Conſciences and Oracles of the Gentoos. I examined them in the Preſence of Mr. Juſtice Chambers and Mr. Juſtice Le Maiſtre, who happened to be with me when I ſent for the Pundits. A Copy of their Anſwers, in the Bengal Language, and a literal Tranſlation of the ſame into Engliſh (marked A) I have the Honour to incloſe. The Original, ſigned by Four Pundits (One of whom, I am informed, is the Chief of that Order of Men in this Country) I have preſerved. They added, it is no eaſy Matter to loſe Caſt. A Bramin muſt eat Eight Times the Meat of a Muſſulman before he can loſe his Caſt. Mr. Juſtice Chambers and Mr. Juſtice Le Maiſtre declared themſelves perfectly ſatisfied with the Anſwers of the Pundits, and that there were no Grounds for altering the Mode of Confinement of the Mahah Rajah.

The Mahah Rajah has Two Rooms to himſelf; Mr. Yeandale, the Keeper of the Gaol, having given up to him the Apartments which were occupied by himſelf and Wife. But leſt I might be miſtaken in the Deſcription given me of the Situation of the Rooms, I prevailed on the Pundits to go to the Priſon, and examine the Apartments in which the Mahah Rajah is confined, and from thence to certify to me, whether any, and what Prejudice, would accrue to him, on account of his Religion, from his Confinement there. A Copy of their Anſwers from thence, and a literal Tranſlation in Engliſh (marked B) accompany this. The Originals, ſigned by the Four Pundits, are in my Poſſeſſion.

The Prauchit, or Penance alluded to, if the Confinement ſhould laſt for Forty-one Days, will, as I underſtand, conſiſt of an Obligation to faſt Two Days, and to diſpoſe of a Sum of Money, leſs than the Sum of 1000 Rupees, in Charity. This they did not chuſe to reduce into Writing, deſiring to refer themſelves, for more Accuracy, as to the Sum, to the Shaſtah. They are to ſend me an Extract of that Book; a Copy of which, when I receive it, I ſhall do myſelf the Honour of tranſmitting to your Board.

As the Meſſage brought to me by the Sheriff, was verbal, my Anſwer, which was verbal likewiſe, could only be ſhort; but I thought it proper to lay before you the Information I had collected, that I might not appear wanting in that Attention I ſhall always give to any Meſſage from your Board, and likewiſe to prevent your Board from being further deceived by improper Suggeſtions.

The Judges will, as far as by Law they may, remit the Rigor of the Engliſh Law, in all Caſes where its Effects may be prejudicial to the Natives, on account of their Religion; and perhaps in ſome Caſes, would yield even to Prejudices, if national and deep rooted; but they muſt not ſuffer the Pretence of Religion to be ſet up for the Purpoſes of eluding the ordinary Courſe of Law. Should the Claim made by the Mahah Rajah be allowed, it would go far towards abrogating great Part of the late Act of Parliament, by the Difficulties which would thereby be created, in Execution of the Laws againſt a large Body of People intended by the Act, and by His Majeſty's Charter, to be ſubject to the Juriſdiction of His Court.

The Mahah Rajah is of the Caſt of Bramins; they are very numerous in Calcutta, over which there is an expreſs Juriſdiction; many of the Company's Servants, and moſt of the Bramins and Gomaſtahs of His Majeſty's Britiſh Subjects, are of that Caſt.

It would be a very heavy Burthen to the Sheriff, ſhould he be obliged to provide ſeparate Houſes for each Bramin, whom it might be neceſſary to confine; and much more ſo, to provide a ſufficient number of Officers to ſurround thoſe Houſes, to prevent Eſcapes.

Many Bramins are now in the Common Gaol; Men of higher Caſt than the Mahah Rajah have been confined there; none of them have loſt their Caſt, and this is the firſt Complaint of the Kind.

Notwithſtanding the Inconveniencies, had the Facts turned out as repreſented by the Mahah Rajah, I have little Doubt but that the Judges would have found out ſome Means of giving him Relief.

I am happy in this Inſtance, that the Board has given me an Opportunity of vindicating the Judges from any ſurmiſe of Rigor, or want of Humanity; but muſt make it my Requeſt, that the Mahah Rajah may be acquainted by the Board, that if he has any further Applications to make for Relief, that he muſt addreſs himſelf immediately to the Judges; for ſhould he continue to addreſs himſelf to the Board, that which will and can only be obtained from Principles of Juſtice, may have the Appearance of being obtained by the Means of Influence and Authority; the peculiar turn of Mind of the Natives being to expect every Thing from Power, and little from Juſtice. I know I ſhall be pardoned the Obſervation, being clearly convinced that the Board would be cautious in furniſhing Ground for, as the Judges can be zealous of incurring, the Imputation.

I am, with great Reſpect,
Honourable Sir and Sirs,
Your very obedient, and
very humble Servant,
(Signed) E. Impey.

The Pundits have juſt informed me, by Meſſage, that they are unanimouſly of Opinion, that if a Straw Shed was built on the Inſide of a Priſon Yard, ſeparate from any Houſe, the Mahah Rajah, after a Month's Confinement, would be obliged to pay Twelve Rupees, or thereabouts, only, for the Purpoſe of feaſting the Pundits and Bramins.

Copy of the Proceedings of the Governor General and Council on the 16th May, 1775.

Read the following Letter and Incloſures from Sir Elijah Impey.

To the Honourable Warren Haſtings, Eſq; Governor General, &c. Council, at Fort William.

Honble. Sir and Sirs,

Laſt Night I received the incloſed Extracts of the Shaſter, from the Pundits; the Tranſlations which accompany them, I have this Moment received: By theſe it will appear how little Foundation there was for the Scruples of the Mahah Rajah.

As by your's with which I am favoured, you informed me that, from the Examination of the Sheriff, Under Sheriff, and the Perſon who acts as Preſident of the Caſt Cutcherry, you were confirmed in thinking, that the Facts repreſented by the Mahah Rajah were true, and that his Refuſal to take Suſtenance was founded in a ſincere and religious Prejudice, I was deſirous to have all the Lights I could poſſibly receive on the Subject; and therefore examined the Under Sheriff, who was preſent when the Sheriff was queſtioned at the Board; and learned from him, that their Examination related only to the Fact and Legality of the Commitment, the Place of Confinement, the Propriety of yielding Obedience to the Judges, and the Conduct of the Judges who made out the Warrant; the Whole of which I had been before acquainted.

I have alſo examined Cantoo Baboo, who acts as Preſident of the Caſt Cutcherry, as to his Opinion what Effect the Mahah Rajah's Confinement would have on his Caſt, and likewiſe as to what he had depoſed at your Board.

I muſt obſerve, that he ſays, that in the Caſe of Confinement for Crimes *proved* on the Priſoner, the Caſt will certainly be hurt; he does not ſay it will be loſt. This is not the Caſe of the Mahah Rajah; no Crime is proved upon him; but he is poſitively charged with an Offence which it will be incumbent on the Proſecutor to prove at his Trial.

Was it to be underſtood, that Caſt was loſt by Confinement on a Criminal Charge, it would go to a Claim of Exemption from all Crimes.

As this Examination, as far it goes, appears to me to lead to a Concluſion contrary to that drawn by the Board, I cannot but apprehend he muſt have given Information to your Board, very different from that which he has thought fit to communicate to me; and as I am ſolicitous to be thoroughly informed in this Matter, which, from the Number of Bramins in this Country, is of the utmoſt Conſequence, I ſhould eſteem it as a Favour from the Board, if they would communicate to me a Copy of the original Examination.

I have been diligent in my Enquiries, and have not yet been able to hear of one Black Man, whoſe Opinion is not, that the Mahah Rajah's Scruples are mere Pretence.

It gives me infinite Concern, that any Thing in my former Letter could, by any conſtrained Conſtruction, be interpreted to queſtion the Authority of the Board: I went no further than the Caſe before me. The Bounds between the Authority of the Supreme Court and the

Council are of too delicate a Nature to be diſcuſſed, without there ſhould be (which I truſt there never will be) an abſolute Neceſſity to determine them.

I did not, nor do I, queſtion the Authority of the Board in receiving Petitions. I carefully reſtricted what I ſaid to this individual Priſoner. I did not deſire his Petitions ſhould not be received; but when received, if they were to require any Thing from the Judges or the Court, that the Anſwer given to the Petitions ſhould be, that he muſt apply himſelf directly to the Judge. This I did to avoid the Imputation I then alluded to, and which would be equally derogatory to the Character of the Council as that of the Judges.

The particular Reaſon which called upon me in this Caſe, to make that Requiſition, was the Reports publicly circulated in this Town, that if the Judges would not be prevailed upon to releaſe the Mahah Rajah, he would be delivered by Force.

Theſe Reports I knew to be groundleſs; but was apprehenſive of the Effects of their gaining Credit, eſpecially in the Infant State of the Court, before its Authority is ſufficiently underſtood or eſtabliſhed. It is not ſufficient that Courts of Juſtice act independently; it is neceſſary, for the good Government of a Country, that they ſhould be believed and known to be above all Influence: A Maxim, in which I am ſure to have the Concurrence of the Board.

I am,
With the greateſt Reſpect,
Hon^ble^ Sir and Sirs,
Your very obedient,
humble Servant,
(Signed) E. Impey.

Calcutta,
15th May 1775.

N° 23.

To the Honourable the Court of Directors of the United Company of Merchants of England, trading to the Eaſt Indies.

Honourable Sirs,

AS the general Letter of this Date, ſigned by all the Juſtices of the Supreme Court, is in a great Meaſure founded upon the Queſtions laid down by your Governor General and Council, in a Letter addreſſed to us bearing Date 8th June laſt, which cloſed a Correſpondence between us and them, concerning Obſtructions which we met with in the due Diſcharge of our Duty; and as the true Statement of thoſe Obſtructions will ſerve greatly to demonſtrate to you, the Neceſſity there is of your immediate Interference and Controul; we have thought it incumbent upon us to ſend you Copies of that Correſpondence, with the Reaſons upon which it was entered into, on our Parts.

When the Charge of the Forgery was exhibited againſt the Maha Raja Nundcomar, Mr. Juſtice Le Maiſtre happened to be the Sitting Magiſtrate: He requeſted the Aſſiſtance of Mr. Juſtice Hyde, who attended with him the whole Day upon the Examination, which laſted from Nine in the Morning till near Ten at Night; when no Doubt of his Guilt remaining in the Breaſt of either of us, upon the Evidence on the Part of the Crown, a Commitment in the uſual Form was made out, directed to the Sheriff and to the Keeper of His Majeſty's Priſon at Calcutta. Juſt as we had riſen, and were going away, Mr. Jarret, the Company's Attorney, came in, and deſired to be heard on the Part of the Priſoner; he repreſented to us, that he was a Perſon of a very high Rank, of the Caſt of Bramins, and that he would be defiled and polluted if placed in the Common Gaol. Willing to give every Indulgence to a Native of his Rank, we enquired, if there was any more commodious Priſon, where Perſons of his Caſt and Religion were uſually confined; but finding there was no ſuch Place, and deeming it totally irregular what Mr. Jarret requeſted, that he might be confined in a private Houſe, we had no Alternative but to order him to be ſent to the Common Goal; but Mr. Jarret preſſing the Matter very much, we readily agreed to conſult with the Lord Chief Juſtice (our Brother Chambers being out of Town) and that if he could ſuggeſt any other Alternative, we aſſured Mr. Jarret, we ſhould readily adopt it. We did go accordingly to his Lordſhip's Houſe; and Mr. Juſtice Le Maiſtre, as the ſenior Juſtice preſent at the Examination, ſent to the Under Sheriff the Reſult of the Conſultations as nearly as poſſible, in the following Words:

" Sir,

" Upon Conſultation with the Lord Chief Juſtice, we are all clearly of Opinion, that the Sheriff " ought not, upon this Occaſion, to confine his Priſoner in any other Place than the Common Gaol.

(Signed) S. C. L.

After Proceedings ſo tender to the Priſoner, and ſo regular in Point of Law, we were not a little ſurpriſed, at hearing the next Morning, that the Council had thought there was ſomething ſo reprehenſible in our Conduct upon that Occaſion, that they thought it neceſſary to make it a Subject of very particular Enquiry.—The Sheriff and Under Sheriff were ſummoned to the Board, our Warrant of Commitment, and Juſtice Le Maiſtre's Note, were ordered to be produced, and the Under Sheriff underwent a very long and particular Examination.—A Copy of this Examination having been granted to him at his Requeſt, and by him ſhewn to us, it was impoſſible not to perceive that it was meant to inſinuate, that our Conduct on that Occaſion had been unuſually ſevere; and conceiving that ſuch an Examination would hardly have been taken without ſome Conſultation or Debate on the Subject, on which our Names muſt of Courſe be mentioned, we conceived ourſelves entitled to Copies of ſuch Minutes or Conſultations that might be made in conſequence, in order to controvert and contradict any Facts [illegible] might have been miſtated to the Board; for, without a Suppoſition of ſuch Miſtatement of Facts, it were impoſſible for us to account for ſuch an Interference in a Matter ſo evidently within our Department, and in which we had acted with ſo much Tenderneſs and Circumſpection.

We therefore addreſſed the Council by Letter, dated 20th May laſt, requeſting Copies of all Minutes on their Conſultations, wherein our Names are particularly mentioned, and which in anywiſe related to the Exerciſe of the Authority committed to us by His Majeſty's Charter.—To our great Aſtoniſhment we received a peremptory Refuſal; and our Aſtoniſhment was the greater, becauſe that Refuſal was grounded upon ſuch very unſatisfactory Reaſons. They ſeemed to admit, that if there was a Charge, they ought ſo ſend us a Copy of it; but they add, that in the Minutes where our Names are mentioned, there do not appear to be any Facts aſſerted, which can be neceſſary for us to controvert. We are ſorry to be obliged to differ ſo widely from them in a plain Matter of Fact—We have already ſhewn ſufficient Grounds for our Belief, that ſome Facts muſt have been aſſerted, as the Ground Work of the ſolemn Scrutiny into our Conduct, in the Matter of the Maha Raja Nundcomar. But ſhould we even be miſtaken in that Idea, and that the Gentlemen ſhould have entered into that minute Enquiry without any Foundation whatſoever, it was impoſſible for them to have forgot that there was ſtanding upon the Minutes of the Revenue Department, under Date 4th January, a poſitive and direct Charge againſt Mr. Juſtice Le Maiſtre; and that there was a Debate and Conſultation thereupon on the 20th of the ſame Month. As our plain Meaning was not for Copies of ſuch Minutes as concerned us jointly, but for all ſuch wherein our, or either of our Names had been mentioned, and which in any way related to the Authority committed to us by His Majeſty's Charter, Copies of what paſſed on that Subject on that Day ought, in Juſtice, to have been ſent to us; and more eſpecially as Mr. Juſtice Le Maiſtre had ſo candidly cleared up that Matter, through the Medium of the Governor General, thought he ſhould not condeſcend to enter into a Correſpondence with their Secretary, or deemed himſelf obliged to defend his Conduct before a Tribunal to which he was not amenable.

As this was the firſt Inſtance of the Interference of the Council with the judicial Authority of the Judges, and as it ſerves as a ſtrong corroborating Argument, to juſtify the Requeſt made to you in our general Letter, we ſend you encloſed a Copy of that Charge, and of Affidavits totally contradicting and refuting it. Had the Council been as ready to inveſtigate the Truth as they were to regiſter upon their Proceedings on that Paper, they needed not have called upon Mr. Juſtice Le Maiſtre for any Anſwer to it, or for the Grounds of this Determination; for a little Conſideration might have made it occur to them, that the Two Perſons alluded to in that Paper, the Sircar who is ſaid to have interpreted that oppreſſive Order, and the Hircarrah who is ſuppoſed to have been the actual Agent to carry it into Execution, were upon the Spot, and might have eaſily been examined. Their Powers, as Juſtice of the Peace, were ſufficient to enable them to apprehend that Hircarrah, who could not have juſtified himſelf under Pretence of ſuch illegal Orders given him by his Maſter, nor could Mr. Juſtice Le Maiſtre have taken any Offence at their adopting that Mode of Proceeding, as he only could have inferred from it, that they would not preſume him privy to an Act of ſuch atrocious Violence and Oppreſſion.

It being therefore clear to us that there were Minutes on their Conſultations, containing Facts very Material for us to controvert, we thought it neceſſary to our Dignity to perſiſt in a Demand of a Communication of theſe Minutes; and, juſtly alarmed at the dangerous Tendency of ſuch a ſecret ſuperintending Power exerciſed over our judicial Acts (however regular and conformable to Law) we wrote a Second Letter, proteſting, in the warmeſt and ſtrongeſt Terms, againſt the Illegality of ſuch Proceeding; and (whatever Offence the Gentlemen may think proper to take at the Terms of that Letter) we cannot conceive that, as their Equals, we were bound to addreſs them with any Mark of particular Reſpect, at a Time when we had Reaſon to believe they were doing what might injure our Reputations moſt eſſentially in the Eyes of His Majeſty's Miniſters, to whom thoſe Minutes, by the late Regulation, muſt be tranſmitted.

We recommend the Anſwer of thoſe Gentlemen, dated 8th June, to your proper Notice: We ſubmit to your Candour, whether a Tone of ſuch Superiority is becoming from your Servants, to His Majeſty's Judges: We will leave to you, impartially to determine, whether we, or thoſe Gentlemen, have, in the Letters, moſt deviated from the proper Dignity, or adhered moſt to that Moderation which (as

they

the Gentlemen juſtly remark) ought to be obſerved in all the Proceedings of public Bodies, and of Individuals, in high and public Stations.

We need make little Obſervation upon that Anſwer, beyond what is ſaid in [illegible]. It contains Doctrines of the moſt dangerous Tendency, neither founded on any Right derived from the Act of Parliament, nor on any Part of thoſe Inſtructions from your honourable Board which have come to our Knowledge.

If either of the Two principal Branches of Adminiſtration, each deriving its Power from a different Authority, and acting independently, ſhould take upon itſelf [illegible] Character of Protector of the Natives, [illegible] any other Pretence aſſume a Right of interfering [illegible] Department of the other, upon a ſuppoſed Neceſſity, of which it ſhall conceive itſelf at all Times to be the proper Judge, the Barrier of the Conſtitution of this Preſidency (as by Law eſtabliſhed) would totally be broken down, and the natural Conſequence would be Confuſion and Anarchy to the Affairs of the Public and the Company.

We have no Doubt but that by a timely Interference on your Part, theſe Evils will be totally prevented, and (that furniſhed as you are with the ableſt legal Aſſiſtance) you will be ſatisfied that we have not encroached on the Powers of the Council; and that you will be able to inform them, from the beſt Authorities, that their Claim of Superintendance over our Conduct, is a total Miſconception of the Act of Parliament, they will require very little Admonition from you, to induce them to abſtain for the future from thoſe Proceedings towards it, of which hitherto we have had ſuch Reaſon to complain.

We ought to apologize for the Length of this Letter: We can only ſay, we would not have troubled you with a ſeparate Addreſs, had we not been precluded from any further Correſpondence with your Governor General and Council by the mandatory Clauſe with which they have thought proper to conclude that Letter which we have ſubmitted to your Conſideration.

We have the Honour to be,
with great Reſpect,
Honourable Sirs,
Your moſt obedient
moſt humble Servants,

Fort William,
Auguſt 2d 1775.

S. C. Le Maiſtre.
John Hyde.

N° 24.

To the Honourable the Court of Directors of the United Company of Merchants of England trading to the East Indies.

Honourable Sirs,

BY means of the Letter herewith ſent, we take the Liberty of deſiring your Governor General and Council to tranſmit the incloſed Addreſſes to you, which they, by their Letter herewith likewiſe ſent, have declined.

We nevertheleſs thought you ſo much intereſted in the public Adminiſtration of Juſtice in theſe Provinces, that we thought it would not be unacceptable to you, to receive authentic Intelligence of the Senſe the Public here entertain of the Benefit they receive from His Majeſty's having moſt graciouſly erected an Independent Court of Juſtice at this Settlement: We have therefore incloſed them for your Information; and are,

Honourable Sirs,
with the greateſt Eſteem and Reſpect,
Your very humble Servants,

Fort William,
Sept. 9th, 1775.

E. Impey.
John Hyde.

It being Vacation, Mr. Juſtice Chambers and Mr. Juſtice Le Maiſtre are abſent from the Settlement.

N° 25.

To the Honourable the Court of Directors of the United Company of Merchants of England trading to the East Indies.

Honourable Sirs;

THE Governor General and Council having this Day incloſed, under a Direction to the Judges, a Letter which they have wrote to you, deſiring that the State of the Proceedings of the Supreme Court, in a Cauſe lately depending there, ſhould be laid by you before the King's Miniſters; I am extremely concerned to find myſelf under the Neceſſity of troubling you on the Subject, to ſet ſome Matters right, which have been erroneouſly ſtated in the Letter. And to vindicate the Conduct of the Court, I take the Liberty of making Obſervation on the Proceedings, without troubling you with Copies of the return to the Habeas Corpus, or the Papers thereunto annexed, as I do not doubt thoſe which they have laid before you, will be authentic, and the neceſſary Time of copying them, would defeat any Probability I may have of this arriving in England by the ſame Conveyance as their Letter, which was diſpatched ſome Days before I received a Copy of it; and my only Chance is by ſending this to overtake the Colebrooke at Madraſs: I am the more diſtreſſed, as it is Vacation Time, and all the Judges but myſelf are abſent from the Settlement, at a Diſtance too far to permit me to have any Communication with them. I was much ſurprized, that by ſome Miſtake (ariſing, as I ſuppoſe, from the Ignorance of the Perſon conſulted in Law Matters, and for want of knowing the Meaning of the Word, and contrary to what appears in their own Proceedings) the Governor General and Council have erroneouſly ſtated, that the Perſon delivered to bail on the Habeas Corpus (which they call a Releaſe) had been committed in *Execution*; and that they complain of it, as an Interference in the Diſcharge of the judicial Powers of the Committee of Revenue. I was the more ſurprized, as Mr. Cottrell, the Preſident of that Committee, declared, in open Court, before all the Judges, that he did not conſider him in Execution; that the Committee, in adjuſting Accounts, had no Power to make juſt Deductions and Allowances, or to make any final Settlement on a diſputed Account, until they had received Inſtructions from the Governor General and Council; and that they were not inveſted with or acted in a judicial Capacity. The Proceedings of the Committee, which are annexed to the Return, confirms Mr. Cottrell in all he ſaid; which followed in this Order:

“ On the 1ſt May 1775, the Accountant General having laid the Accounts of Commaul o Din before the Committee, Peons were ordered to be put on him, on his Security, and on Buſſunt Roy, the Under-tenant, no Demand having at that Time been made on either of them; and on the ſame Day the Committee write for Inſtructions to the Governor General and Council; 12th June, an Order is iſſued from the Governor General and Council to make a Demand on Commaul, and to report his Objections.

“ 30th June, the Demand is made on him; and he, in his Anſwers, by which, beſides objecting to the Juſtice of the Demand, he ſtates, that his Farm has been let out by him to an Under-tenant, who had been introduced to the principal Officers of the Collections, and had paid Rent to the Company in that Character; and therefore required, that, according to the known Uſages and Cuſtoms of the Collections, the Demand of the Rent ſhould be made on the Under-tenant. This Objection is over-ruled by the Committee, who do not deny the Conſequences, if he was really the Under-tenant, but ſay, “ though Buſſant Roy may have paid the Rents of the Farm at the Sudder Chutcherry, yet “ it could only be in light of an Agent.”—This, though they had no Right ſo to do, they determine arbitrarily, without aſſigning any Reaſon; whereas, by the univerſal and immemorial Uſage of the Collections, this Matter ought to have been referred to the Dewan and the Canongoes, who are the only proper Judges of Diſputes on the Laws and Uſages of the Country. * The Canongoes have always been appealed to for their Opinion in all Points reſpecting the Uſages of the Collections, both by the late Preſident and Council and the Provincial Councils in their Time, as the Pundits were conſulted in Matters of Law: they never preſumed to decide on ſuch Points without them, and it is a ſubſiſting Law in the Collections.

“ On the ſame Day they wrote to the Governor General and Council; Report his other Objections, but ſuppreſs this, which was the Principal, in Diſobedience of the Orders they had before received. —July 24th, before any Anſwer is received from the Governor General and Council, a Demand is made on Commaul, who again requires that the Under-tenant ſhould be called on, and inſiſts on the Company's having made Advances of Money to him, as an additional Proof of his being accepted as a Tenant. This is again over-ruled by the Authority of the Committee, and Commaul is immediately ordered into ſtrict Confinement.—The 29th July, the Governor General and Council order what Demand ſhall be made on Commaul; and on that Day, and not before, purſuant to thoſe Orders, a Statement of the Amount was prepared, no freſh Demand was made, no freſh Commitment, no Change in Execution.—28th July, The Habeas Corpus iſſued, which was before a Statement of the Account had been prepared. You, Gentlemen, will judge with what Propriety a Priſoner can be ſaid to be committed in Execution, when even the Demand intended to be made on him, is not adjuſted by his Creditor till after his Commitment. It is ſtated by the Letter, that the Cauſe for delivering the Priſoner to Bail, was an Informality, in not ſetting out, that the Committee, in this Caſe, had a Power to commit without Bail or Mainprize. The Omiſſion of thoſe Words were far from being ſimply want of Form; had they been inſerted, the Return would have been falſe; for Mr. Cottrell being aſked, Whether Bail was ever taken in ſimilar Caſes? anſwered in the Affirmative; and had it not, in Caſes of diſputed Demands, nothing could be more unjuſt and oppreſſive. He likewiſe ſaid, That the uſual Conditions of the Bail Bond was, that the Priſoner ſhould appear before the Committee, when he ſhould be called on; and that the Bail was always taken before the Preſident of the Committee. In conſequence of this, the Order was made on Mr. Cottrell, to take Bail on the Terms he himſelf had dictated: But to prevent the Juſtice of the Court from being eluded, by immediately calling for the Appearance of the Priſoner, which the Terms of the Bond did not guard againſt, we intimated to Mr. Cottrell, that we expected that Commaul's Appearance ſhould not be required, until Endeavours had been made, without Effect, to recover the Money of the Under-tenant. This was thought more expedient, than to make any Innovations in the uſual Form of the Bail Bond, although the Gentlemen, in their Letter, profeſs themſelves to be at a Loſs to aſſign the Motives which might induce ſuch an Intimation, and attribute it to ſome general Principles of Law, with which they are unacquainted. I have no Doubt but thoſe Parts of the Proceedings which I have obſerved on, have, in ſome Meaſure, pointed out to you the Reaſons on which the Judges acted, both before and ſince the Return to the Writ. We have taken great Pains to acquire the moſt authentic Information, concerning the Cuſtoms and Laws of the Collections, as a Guide to our Conduct, in Caſes of Complaint againſt the Officers concerned in them. I find from the beſt and moſt undoubted Authority, that wherever, either by accepting Rent, or making Advances in Money, or by any other Means, the Officers have taken Notice of a Perſon as Under-tenant, by treating with him, inſtead of the Principal Farmer, the Demands of the Company have conſtantly and uniformly been firſt made on, and enforced againſt, ſuch Perſon; and it is the ſettled Opinion of all who have been converſant in the Revenues, that until ſuch Demand has been made without Effect, the Officers have not any Right whatſoever to make Demand upon, much leſs to impriſon, the original Farmer. This was the Opinion of Mr. Cottrell. Had he admitted that the Rent was received from Buſſunt Roy, as Under-tenant, that the Committee ſhould not eſteem him ſo now is the more Extraordinary, as they had, till very lately, made their Demands on him, and on him only, and had made Money Advances to him.

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* It is not unworthy of Remark, that the Word Canongoe is a compound of Canoon [Law,] and Go [a Speaker,] an Expounder of the Law.

They had conſidered him otherwiſe than as a mere Agent, even ſince this Diſpute; for had they not conſidered him in ſome Meaſure reſponſible, on what Pretence were the Peons ſet over him on the Firſt of May? This is the uniform Opinion of all Gentlemen, who have been long reſident in this Country, and have been the moſt converſant with the Revenues; and though, unfortunately, the Majority of the Council think differently, it is the Opinion of thoſe Members, who have been the longeſt and moſt intimately acquainted with this Buſineſs; it is the Opinion of the Governor General, who inſtituted the Committee, and who formed the Rules and Orders for their Proceedings. It was not from any Principle peculiarly applicable to the Engliſh Law, that the Judges have acted; we draw no Analogy to the Attornment of Tenants, knowing how dangerous it might be to argue from the Engliſh Law in a Caſe of this Nature: We acted from the known Laws and Uſage of the Revenue in this Country.

In September 1774, Commaul o Din made over the Farm to Buſſunt Roy, with the Knowledge and Concurrence of the Gentlemen who preſided in the Committee: From that Time, Buſſunt had Poſſeſſion of the Collections, paid the Rents to the Committee, received their Orders, and in every Circumſtance acted, and was conſidered, as the real Farmer, till the late Demand was made on Commaul o Din. Though many other Grounds ſuggeſted themſelves to us, to relieve the Priſoner on this Writ, we choſe to confine it to the not having ſet out a Power to the Commitment without Bail, that the Caſe might be more ſpecial, and afford no plauſible Grounds for any Complaint of taking on us to decide in Cauſes which concern the Company's Revenues. I have now gone out of the Return, which, I truſt, I need not, for the Vindication of the Court; for the quieting of any Alarms that may have ariſen from the Importance the Governor General and Council have thought fit to give this Affair; from the Manner in which they treated it, and the Perſons to whom they have addreſſed it. The Supreme Court have not, and I will pledge myſelf, that while the preſent Judges remain in the Country, will not, in any Method whatſoever, impede the Collection of the Company's Revenue. I am at a loſs to find out the Inconſiſtency of the Judges in taking Bail to appear before the Committee; and how that can furniſh Matter of Complaint. Had Bail been taken to appear in the Supreme Court, it would have been drawing the Cauſe to themſelves, and they might have had ſome Cauſe of Complaint. No Decree has been ſuperſeded, for no Decree had been made. The Authority of the Dewannee was never, nor is intended to be diſputed. If by the Words tacit Confeſſion, "That the "Renter was not in this Caſe intitled to the Engliſh Law," is meant, that the Trial of the Cauſe of

Action, which the Company had againſt Commaul, ſhould not be by the Forms and Proceedings of the Engliſh Law, I wiſh the Confeſſion not to be received by tacit Implication; the Court has not, nor does not aſſume the Juriſdiction; but I ſhould think it a Breach of Duty, underſtanding as I do, the Truſt committed to the Supreme Court, to admit either tacitly or otherwiſe, that a Renter, or any other Perſon, is not intitled to the Protection of the Engliſh Law from the Oppreſſions of the Collectors (in whoſe Room the Committee of Revenues is ſubſtituted) or of any other Officers of the Government. Should this be admitted, as there are very few who do not mediately or immediately hold Land of the Company, there are but few on whom Revenue Claims cannot be made, and to whom the Protection of the Court can be extended. I ſhall not obſerve on the Policy of making the Demand on the Under-farmer; but cannot help remarking, it is in the Power of Government to accept or not to accept him as their Tenant; and when they have, they ſhould abide the Conſequence; I cannot ſee how it is unjuſt, and it is moſt unqueſtionable the immemorial Uſage.

By the Affidavit of the Attorney for the Company, among the Papers tranſmitted to you, it ſeems to be inſinuated, that the Court had acted with Precipitancy: It will therefore be neceſſary to ſtate the Progreſs of the Cauſe. The Habeas Corpus was granted on 28th July, returnable immediately; the Return was not called for till ſome Days afterwards: A Day was appointed for receiving the Return; when neither the Advocate nor the Attorney attending, though there was no Pretence of want of Notice, the Court then ſent continual Meſſages for them, and remained ſitting from Ten o'Clock till One; when the Court at laſt ſent Word to the Attorney, that if he did not appear, and no Return was made, the Court would proceed to Releaſe the Priſoner. On that, the Attorney came without making any Return. He then prayed Two Days Time to make the Return; the Court granted Four: At the Expiration of that Time, the Return was drawn ſo ignorantly and unclerk-like, that if there had been Merit, they muſt have been precluded; the Court therefore gave them another Week to amend the Return, and dictated to the Advocate what they thought would be neceſſary to ſet out. A Week before the Determination, Saturday was appointed to argue the Return; Mr. Juſtice Chambers was at Chinourah, where he had taken a Houſe during the Vacation; Mr. Juſtice Le Maiſtre was in his way to Mongheer; on the Monday following, Mr. Juſtice Hyde was going on a Viſit to Bangle Poor: I myſelf was very ill, and was that Day going, by the Direction of my Phyſician, to a Garden Houſe belonging to a Friend of mine in the Neighbourhood, for the Recovery of my Health: We waited that Day from Ten in the Morning till Twelve, before the Priſoner was brought up; and the Advocate for the Company abſolutely refuſed attending. We then proceeded: Had the Cauſe then been delayed, I could have had no Aſſiſtance; and my Health was at that Time in ſuch a State, that I ſaw but little Probability of being ſoon able to attend to Buſineſs. I ſhall not attempt to anſwer the Arguments of the Gentlemen, tending to ſhew the Inexpediency and Illegality of drawing the Cognizance of Revenue Cauſes to the Supreme Court: For though it is moſt certain, that the Oppreſſions which are and may be exerciſed in that Department, call for the Interference of a Supreme Authority; yet as we do not apprehend we have ſuch Authority, no ſuch Attempt has been or will be made by the Court. The Gentlemen do not make the Diſtinction, which is moſt obvious, between claiming a Juriſdiction over the original Cauſe, and preventing their Miniſters, under the Colour of legal Proceeding, from being guilty of the moſt aggravated Injuſtice. This Diſtinction if attended to, is of itſelf ſufficient to clear away every Thing that can give the leaſt Alarm on the Account of the Intereſts of the Company: For the Court allowing the Cuſtom and Uſage of the Collections to be the Law of the Country, have only compelled the Officers of the Government to act conformable to thoſe Uſages, and not to make uſe of the Colour and Forms of Law to the Oppreſſion of the People. No Cauſe could be more pregnant with Cauſes of Suſpicions of that Sort, than the preſent; the Priſoner had made himſelf obnoxious to ſeveral Members of the Council, by an Information which he exhibited before all the Judges on the 19th of April, in a Matter in which the ſeveral Members of the Council were either Parties, or had much intereſted themſelves.

On the 24th, the Parties were bound over to proſecute: On the Firſt of May, the Accountant laid the Account before the Committee, and Peons were ordered to be ſet upon the Priſoner; his Vakeel (that is, his Agent) was, without any Colour of Law, impriſoned for the ſame Demand, during the Trial of the Cauſe; in which he, Commaul, was the principal Evidence. Immediately after the Trial, he was himſelf ordered into Confinement, and for that Purpoſe the Courſe of Proceeding in the Committee was inverted. Before and during the Trial, the pretended Claims of Government was uſed for the Purpoſe of Intimidation; and after, for that of Puniſhment; and the whole Influence of Government is now drawn down on this Court, for not ſubmitting to ſo manifeſt an outrage to Juſtice. I hope the Court will not, in this Caſe, be proved to have exceeded its Juriſdiction, or to have made any illegal Encroachments on the Powers of the Governor General and Council. The Judges were, till the Time they ſaw this Letter, entirely ignorant of the Claim made by the Governor General and Council, That the Acts of the Officers on the Collection of the Revenue, however oppreſſive and illegal, were not ſubject to the Controul of His Majeſty's Court. The Return to the Habeas did not, even by Averment, deny the Juriſdiction of the Court; the Advocate for the Company ſuggeſted no ſuch Idea.

It gave me great Concern, that the juſt Notification that was made to the Judges was, that they *had* commanded their Officers "to pay no Attention to our Order from the Supreme Court, or any "of the Judges, in Matters which solely concerned the Revenue;" thereby leaving to their Officers to judge in what Inſtances they are, and in what not, to pay Obedience to the Order of the Court.— I cannot help thinking they would have acted with more Moderation and Candor, and that their Conduct would have been more likely to have met with the Approbation of His Majeſty and His Miniſters, and of their Honourable Employers, if they had made this Claim in, and received an Anſwer from, the Court, before they had iſſued Orders of ſo hoſtile a Nature; the leaſt bad Conſequence of which, muſt be the relaxing the Powers of Government, by giving Cauſe to the Public to apprehend Diſunion between the Two Branches of Adminiſtration; which I ſhall in this, as well as in all other Inſtances, moſt ſtudiouſly Endeavour to avoid. I fear greater Alarm may be taken in England, from the Apprehenſion of the Conſequence of a Variance between the Governor General and Council and the Court of Juſtice, than from the original Matter of Complaint; which, in Fact, hath nothing of Importance in it. I am ſo well convinced of the Detriment which a Variance would be of, to the Intereſts of the Nation and the Company, that I will undertake the Court ſhall now, and will upon all Occaſions, act with ſuch Moderation, and make ſuch neceſſary and reaſonable Conceſſions, at the ſame Time enforcing the Authority of the Court, to the Governor General and Council, that the State ſhall neither incur Scandal nor Prejudice, until ſuch Time as you, Gentlemen, have taken legal Advice, ſhall give Orders to your Governor General and Council how to act, and until, if we have been guilty of any Illegality, our Powers ſhall be by His Majeſty's moſt gracious Favour and Authority, more fully explained to us.

I have not waited until you ſhall have laid the State of the Proceedings before His Majeſty's Miniſters, but have wrote directly to His Majeſty's Principal Secretary of State for the Southern Department. I have confined myſelf entirely to the ſubject Matter of this Letter, and have made no Complaint on the ſeveral Attempts of the Governor General and Council to interfere with the Juſtice of the Court, it not being my Intention to add to the Embarraſſment of India Affairs.

I muſt take the Liberty of ſubmitting to you, the Propriety of procuring better legal Aſſiſtance for your Governor General and Council than they are at preſent provided with; for the Ignorance and Raſhneſs of the Perſons they at preſent conſult, muſt be perpetual Source of Embarraſſment to your Servants in India.

I am, with the greateſt Reſpect,
Honourable Sirs,
Your very obedient and very
humble Servant,

Fort William,
Sept^r 19th, 1775.

E. Impey.

N° 26.

Calcutta, 23 November 1775.

Honourable Sirs,

BY the Colebrook, Captain Morris, I took the Liberty of communicating to you, an Account of the Proceedings in the Caſe of Comaul Odeen Ali Khan, and the Reaſonings of the Judges thereon.

And as the Reference made to you by your Governor General and Council, and their thinking your Affairs had received Injury to ſo great an Extent, as to induce them to deſire thoſe Proceedings ſhould be laid before His Majeſty's Miniſters, might give you juſt Apprehenſions for your Affairs in India, I have thought it proper to ſend you an Account of the Sequel of that Buſineſs; and have incloſed the further Proceedings, and final Opinion, of the Court; which has as yet been, and I believe will be (from a Conſciouſneſs of the Propriety of it) peaceably acquieſced in by your Servants. A few Days after Comaul was delivered to Bail, he was, by Order of your Calcutta Committee, again apprehended and kept cloſe Priſoner for the ſame Cauſe.

No Proceedings were heard for the Contempt: Mr. Juſtice Chambers iſſued a ſecond Habeas Corpus.

While that was pending, the Phouſdar of Houghly, who is nominally appointed by the Nabob, but who is paid by you, and obliged to obey the Orders of your Governor General and Council, and thoſe of your Calcutta Committee, ſeized the Houſe and Effects of the Priſoner at Houghly.

As the Calcutta Committee remained ſo ſteady in their Purpoſe, I propoſed to Mr. Juſtice Chambers, the only Judge beſides myſelf in the Settlement (it being then Vacation) who aſſented to my Propoſal, to take, on the incloſed Queſtions, the ſeperate Opinions of the Roy Royan, the Cannongoes, and the Sheriſta of the Khalſa (the proper Officers to be conſulted by your ſuperior Board of Revenue) and of all the Gentlemen of the Board of Commerce, who are then reſident in Calcutta, being your Senior Servants next to the Governor General and Council, except ſuch Members of their own Board who are appointed to Chiefſhips. All or moſt of thoſe Gentlemen, had been employed in your Collections. The Anſwers accompany the Queſtions: You will ſee they entirely coincide with the Opinion of the Judges.

Upon the Payment of the 9,033 R^s 7 An^s, the Priſoner was diſcharged, as appears by the Judgment of the Court.

I ſend a ſimple Detail of Facts, and do not trouble you with any Comment or Obſervation; my Intention being only, by relating the reſt of that diſagreeable Affair, to quiet any Alarms, the Letter of your Governor General and Council might have given Riſe to.

Permit me to add a few Words concerning my own Affair.—Mr. Harriſon, Deputy Chairman at the Time I left England, without any Solicitation, acquainted me, that he did not apprehend the Judges could, on their Arrival in India want any Remittance, and therefore no Proviſion of the Kind had been made for him that Year; but was ſo kind as to promiſe that he would think of them, when future Orders on that Head were ſent to Bengal. Conſidering the Multiplicity of your Buſineſs, it is not ſurpriſing ſo trivial a Circumſtance ſhould have eſcaped his Memory.

The Allotment this Year, as far as it has come to my Knowledge, has been, to the Governor General £. 14,000, a Member of the Council £. 7,000, Chief Juſtice £. 2,000, Puiſne Judge £. 1,500, a Member of the Board of Trade, £. 1,000.

That allowed to the Judges, compared with thoſe allowed your Servants, will appear diſproportioned to their Rank and Salaries. Beſides the £. 7,000 to each Counſellor, the Governor General and Council divide among themſelves the Surplus ariſing from thoſe who are entitled to a Charge, not making Uſe of their Right, which laſt Year amounted, on a Diviſion, to the Sum of £. 1,320 to each Counſellor; which, added to £. 7,000, make the Sum of £. 8,320 to each Counſellor.

The Judges made no Repreſentation to your Governor General and Council on this Head, being determined, that no private Intereſt of their own ſhould lead them into any Diſpute with your Adminiſtration; and indeed, I am induced to believe, that were your Governor General and Council inclined to deal liberally with them, you might think it hardly decent, conſidering their Rank and the Nature of their Offices, that the remitting the Savings of their Salaries to Europe, ſhould depend purely on the Pleaſure of your Servants here.

Prohibited from all Trade, the Judges have no poſſible Means of making Uſe in England of any Money that they may acquire here, but by the Means of your Bills, except they export Bullion, which would be againſt your Policy in India; and to their great Loſs, unleſs they avail themſelves of Foreign Companies, which I am ſure they never will, as they will ever conſider that to be unworthy of their Characters, which can in any Way be detrimental to your Intereſt.

Should any of the Judges die in India, if they had acquired any Fortunes, they muſt be either much diminiſhed by remitting them in Bullion, or totally loſt to their Families; as the Share of your Remittance the preſent Year, for Eſtates of deceaſed Perſons (be the Value what it may) is no more than £. 16.

I would by no Means be underſtood to inſiſt on a legal Demand, which I very well know I have not; but ſubmit to your Candor to judge, whether it might not be proper and equitable, when you notify to your Governor General and Council, the Quantum of the Yearly Remittance to Bengal, to make a Standing Order, that a Share ſhould be allotted to each Judge, being ſuch a certain Proportion as you ſhall think expedient to direct, to the Shares which your Governor General and Council ſhall appropriate to each Counſellor.

I have the Honour to be,
with the greateſt Reſpect,
Gentlemen,
Your very obedient, and
very humble Servant,
E. Impey.

REFERENCES TO N° — N° 27, 28.

N° 27.

Crown Side.

In the Supreme Court of Judicature at Fort William in Bengal.

Rex *v.* Budder ul Deen.

COMMAUL ul Deen Alliee Cawn of Calcutta Inhabitant, and Coongee Behary his Gomaſtah, ſeverally make Oath and ſay. And firſt the ſaid Commaul ul Deen, for himſelf, ſaith, That on or about the Twenty-ninth Day of September laſt, he this Deponent cauſed to be preſented in Writing, by his Vakeel and Gomaſtah, to the Calcutta Committee of Revenue, a Petition from him this Deponent, requeſting that ſuch Committee would accept of the Payment of Nine thouſand and Thirty-three Sicca Rupees, and Seven Annas, which had been demanded of him by the ſaid Committee, on account of Ticka Kalaries, and that he this Deponent would afterwards ſettle the Account reſpecting ſuch Kalaries, or uſed Words to that Effect; which ſaid Sum of Money he is ſtill ready and willing to pay, or any other claimed to be due on the ſaid Ticka Kalaries. And this Deponent Coongee Behary, for himſelf, ſaith, That in the Preſence of, or together with Mahommud Jummee, Vakeel of the ſaid Commaul ul Deen Alliee Cawn, did, on or about ſuch Time as aforeſaid, duly deliver the ſaid Petition to Henry Cottrell, Eſquire, the Preſident of the ſaid Committee, at the Houſe of the ſaid Henry Cottrell.

The Signature of Comaul ul Deen Aliee Cawn, and
The Signature of Congee Behary.

And this Deponent, Comaul ul Deen Aliee Cawn, for himſelf, ſays, He has never received any Anſwer to ſuch Petition, either in Writing or otherwiſe.

Sworn the Twenty-fifth
Day of October, 1775,
before the Court,
Ja^s^ Pritchard,
Clk. of the Crown.

The Signature of
Commaul ul Deen Aliee Cawn.

A true Copy.
James Pritchard,
Clerk of the Crown.

N° 28.

Calcutta, 20th January, 1776.

My Lord,

NOTHING but the moſt acute Senſe of unprovoked Injury, could prevail on me again to trouble your Lordſhip, eſpecially on ſo diſagreeable a Subject as I am at preſent conſtrained to addreſs you upon. I was in Hopes my official Duty would not have given me Cauſe to break in upon your Time, which I know can be ill ſpared from the more weighty Concerns of the State; and that it ſo far ſeparated me from Politics, that my Peace and Quiet of Mind could not have been broke in upon by Party Diſputes: But I have fatally experienced, that even in the ordinary Courſe of Juſtice, all Acts and Deciſions which do not co-operate with the Wiſhes and Intereſt of Partizans, can, while their Ideas continue diſtempered, be ſeen only through the Medium of Faction, and muſt be attributed to ſiniſter and corrupt Cauſes.

The Governor General has, within theſe few Days, communicated to me ſeveral Minutes, ſigned by General Clavering, Colonel Monſon, and Mr. Francis; one bearing Date the 15th September 1775, the others on the 21ſt November 1775. They are ſeverally fraught with direct Charges, or plain Inſinuations, againſt the Characters of the Judges, and the Conduct of the Court of Judicature. Some ſeem more particularly levelled at me; for which I can aſſign no other Reaſon, than becauſe I preſide in the Court, and am the Mouth to deliver the Rules, Orders, and Judgments of the Court; for there has not yet been One Act of the Court, in which the Judges have not been unanimous, except in the Caſe of a Mandamus applied for by Mr. Stewart, to be reinſtated in the Office of Judge Advocate General. I gave my Opinion againſt the Mandamus; and believe thoſe Gentlemen will not pretend to take Offence, either at my Opinion, or the Reaſons aſſigned for it.—I call upon them to ſhew any other Act done by me, in which I have not had the full Concurrence of the other Judges.—The Crimes either directly charged upon the Judges, or indirectly inſinuated (which I think we have more Reaſon to complain of, as being leſs liberal) are of ſo horrid and deteſtable a Nature, that if they are well grounded, ought to ſubject each of them to the higheſt Puniſhment a Parliamentary Impeachment can inflict, and brand their Names with Infamy to the lateſt Poſterity. Though I cannot eaſily be perſuaded, that without any Proofs of Guilt, or Probability of it, from Intereſt, either the Vengeance of the Nation, or the Diſpleaſure of His Majeſty, is likely to be called down upon us; yet, my Lord, I know your Humanity will dictate to you my Excuſe (labouring, as I am, under the moſt agonizing Apprehenſions, that ſome Part of the foul Imputations caſt on my Character may gain Credit among the Multitude, who are too apt, from a certain Tendency in Human Nature, to give Credit to Calumny, and accept Accuſations for Proofs) if I endeavour to obviate the malignant Tendency of thoſe Minutes: This I will do, without attempting to re-criminate, by extracting the Paſſages which treat of the Judges and the Court, in one Column, and inſerting Argument, Anſwer, and Proof (where the Matter is capable of it) in the other.—I do ſincerely attribute the offenſive Parts of the Paragraphs to Imaginations, heated by Party Diſputes; and entertain ſo high a Senſe of the Honour of the Gentlemen, that at a Period ſome Diſtance from the Events which ſhall have given Time for their Judgments to cool, they will themſelves be ſhocked at what they have wrote, and be willing to retract the Charges.—I have brought thoſe Parts which allude to the ſame Subject together, to avoid Repetition, which ſeems to be contrary to the Plan of the Gentleman who drew the Minutes; for the frequent Repetitions of the ſame Facts and Arguments, I can only attribute to a Deſire of ſeeming to multiply the ſame Facts, by the frequent mention of them.

Minutes, 15 Sept. 1775.

3. After the Death of Nundcomar, the Governor, I believe, is well aſſured that no Man, who regards his own Safety, will venture to ſtand forth as his Accuſer.

4. On a Subject of this delicate Nature, it becomes us to leave every honeſt Man to his own Reflections.—*It ought to be made known*, however, to the Engliſh Nation, that the Forgery of which the Rajah was accuſed, muſt have been committed ſeveral Years; that in the Interim he had been protected and employed by Mr. Haſtings; that his Son was appointed to one of the firſt Offices in the Nabob's Houſehold, with a Salary of One Lack of Rupees; that the Accuſation, which ended in his Deſtruction, was not produced till he came forward, and brought a ſpecific Charge againſt the Governor General, of Corruption in his Office.

10. At the ſame Time, we confeſs, we are not very anxious about inſtituting any Suit againſt him (Mr. Haſtings) in the Supreme Court.

Although theſe Paragraphs are directed pointedly againſt the Governor General, full as much is inſinuated againſt the Judges as is charged on Mr. Haſtings. A public Notification is profeſſedly made to the Engliſh Nation; by which it is attempted to perſuade them, that the Court of Judicature, eſtabliſhed by His Majeſty, for protecting the Natives of this Country, and the Eaſt India Company, from the Violence and Oppreſſion of the Company's Servants, has been, by the Judges, converted into an execrable Inſtrument, in the Hands of Mr. Haſtings, of deſtroying the innocent Native, for the Sake of protecting the guilty Servants of the Company. The Engliſh Nation have too much Senſe and Candour, to be perſuaded, without any Colour of Proof, that Four Gentlemen, who left England with no Imputations on their Characters for Corruption, and of no known ſanguinary Diſpoſitions, could, unanimouſly, and without even a Propoſal from either of them to the contrary, without any Motives of Intereſt or Ambition, ſo far betray the high Truſt committed to their Care, or forget all Feelings of Humanity, as to carry a capital Sentence into Execution, on ſuch Motives, or even without Circumſtances ſtrong enough to juſtify the Neceſſity of it.

To prove that nothing was intended to be hid from the Engliſh Nation, an authentic Copy of the Trial has been ſent to England, and is in the Hands of Mr. Elliot; he has Authority to publiſh it, if he finds that the foul Aſperſions, which were reprobated here, have been endeavoured to be propagated in England.

It is fit, that your Lordſhip ſhould know not only what the Gentlemen have promulged in England, but (which is equally in their Knowledge) that before the Trial, many daring Attempts were made, on the Part of the Priſoner, to ſuborn Witneſs.

That on a Detection of a groſs Practice of that Kind, before Mr. Juſtice Le Maiſtre and Mr. Juſtice Hyde, a Band of Witneſſes, ſent down from Burdwan, notoriouſly to give Evidence at his Trial, immediately diſappeared.—It will be ſeen, by Peruſal of the Trial, that the Guilt of the Priſoner was proved ſo ſtrongly, from the Caſe he attempted to prove, as from the Evidence on the Side of the Proſecution.—It ſhould be known, that after the Trial, the Jury entertained ſo ill an Opinion of the Defence, that they applied to the Court, that the principal Witneſſes for the Priſoner ſhould be inſtantly committed for Perjury.

It is proper it ſhould be known, that the Jury were repeatedly ſolicited, after the Trial, to intercede with the Judges to recommend the Criminal to Mercy; and the Senſe the Jury continued in, as to the Conviction, I incloſe a Correſpondence between Mr. Farrer, Advocate for the Company, and the Foreman of the Jury, (N° 1).—Mr. Farrer came to India under the Name of Secretary to Colonel Monſon; and was at Colonel

Monſon's Deſire admitted an Advocate of the Court. I had many Complaints of the like Nature, but torn or miſlaid them.

From the Teſtimony having been delivered in Perſian, and interpreted to the Court, and Want of Skill in drawing the Indictment, it was found impracticable to proſecute the Offenders to Conviction; yet it ſhould be known, that the Defence being founded in a Syſtem of complicated Perjury, was the higheſt Aggravation his Crime could receive. It ſhould be known, that the Conduct of the Council to the Judges, and to the Priſoner, during his Confinement, had raiſed an almoſt univerſal Belief in the Natives, and even among the Europeans, that the Priſoner would be protected from Juſtice, in Defiance of the Court. Of the laſt of theſe Facts, Two Gentlemen have made Affidavits, Mr. Elliot (A), and Mr. Durham (B); and as to the reſt, I appeal to Mr. Elliot, now in England, whoſe Veracity, Candour, and Honour, no Man will diſpute: He knows what my Sentiments were, in relation to the Priſoner, both before and after the Defence. He interpreted on the Trial of Nundcomar; and was preſent at that of Fowke; and can teſtify to the Behaviour of the Judges on both Trials.

But it is not ſufficient to endeavour to fix an Odium on the Judges for Injuſtice, in carrying the Sentence into Execution; they are charged with Rigour and Inhumanity to the Priſoner before his Trial.

Minute, 15th September 1775.

27. The Indulgencies we endeavoured to procure Nundcomar, aroſe from Motives of Compaſſion, and a Conſideration of his religious Scruples; to which the Judges themſelves afterwards yielded a Relief, which they had refuſed to our Interceſſion.

I will ſtate the Facts, that your Lordſhip may judge with what Reaſon. As ſoon I was informed of his Commitment, which was late on Saturday the 6th May 1775, I ſent to the Jailor, to deſire the Priſoner might have every Indulgence and Convenience conſiſtent with his ſafe Cuſtody — I ſent to ſee how he was lodged — The Jailor had prevented my Orders; he and his Wife had quitted their Apartments, and given them up to the Priſoner. The Monday at Noon, a verbal Meſſage was delivered me, that the Priſoner had petitioned the Governor General and Council, that he might not be confined in the Jail, becauſe his Caſt prevented him from eating, drinking, or performing the Ablutions which his Religion required in the Jail.—I returned for Anſwer, that, being committed for Felony by Two of the Judges, I had no Right to interfere, and that the Application ſhould be made to them. About the ſame Time, the Priſoner made a verbal Application to me, by Means of my Moonſhy (or Interpreter) to the ſame Purpoſe. I ſent to the Priſoner to know what Alteration in his Confinement he required; he returned for Anſwer, that his Caſt could not be preſerved for him, if he was not lodged in a Houſe, into which no Muſſulman or Chriſtian had entered, or was to be admitted while he was in it; and that he might be at Liberty every Morning to waſh in the Ganges.—The Mahah Rajah was a Bramin. There were many Bramins confined in the ſame Jail for Debt, who had never made any Complaint on account of their Caſt. I deſired the Judges to come to my Houſe; I ſent for the Pundits, and examined them before the Judges; I prevailed on the Pundits to look at the Place of his Confinement: They unanimouſly agreed, that he might eat, drink, and perform his Ablutions in the Place where he was, without any Detriment to his Caſt: They indeed ſaid, that he would be obliged to give away, on his Releaſe, a ſmall Sum in Charity. I ſent the Anſwers of the Pundits to the Governor General and Council; and they had them recorded in their Conſultations — Theſe Anſwers are Extracts from the Shaſta. The Judges were unanimouſly of Opinion, that there was no juſt Cauſe for altering the Mode of his Confinement; and that the Precedent would be dangerous. On the Wedneſday Evening I was acquainted by Mr. Tolfrey, the Under Sheriff, and by Mr. Jarrett, Attorney for the Company, that they had juſt come from the Jail; that Nundcomar had taken no Suſtenance, and they believed would expire, if it was not

Revenue Board, 21ſt November 1775.

It ſeems probable, ſuch Embezzlements may have been univerſally practiſed. In the preſent Circumſtances, it will be difficult, if not impracticable, to obtain direct Proofs of the Facts. The Terror impreſſed on the Minds of the Natives, by the Execution of Maha Rajah Nundcomar, is not to be effaced; for, though he ſuffered for the Crime of Forgery; yet the Natives conceive, he was executed for

not immediately adminiſtered to him. Radachund, his Son in-Law, came in at the ſame Time, and confirmed what they ſaid. Mr. Jarrett added, that he was ſure it was too late.—Struck with Horror at this Repreſentation, I ſent immediately to the Judges who committed him, and for the Gaoler; and diſpatched Mr. Murchiſon, a Gentleman who attends my Family in Sickneſs, to examine the Priſoner. When he returned, Mr. Le Maiſtre and Mr. Hyde were at my Houſe. He reported, that the Priſoner was on the Ground, his Voice ſeemed feeble, but his Pulſe was ſtrong and regular. He did not ſeem to believe the Priſoner could have faſted ſo long, by the Symptoms he found upon him; but would not take upon him to ſay abſolutely he had not; but declared, that if he had actually been without Suſtenance from the Saturday, he thought Nature could not hold out longer than till Eight the next Morning. The Judges thought, that Nundcomar's Danger was more feigned than real; but I, at laſt, prevailed on them to permit me to order the Jailor to let him go immediately without the Walls of the Priſon (to which his Demands now, for the firſt Time, reduced) to receive Suſtenance. This Order was communicated to Nundcomar about 11 o'Clock at Night. He refuſed to avail himſelf of it till next Morning, when he walked out of the Priſon and back again, not ſeemingly enfeebled by his Faſting.—To verify theſe Facts, I incloſe the Affidavits of Mr. Murchiſon (N° 2.) Mr. Yeandle (N° 3.) the Jailor, Mr. Tolfrey (N° 4.) and Gunſham Doſs (N° 5.) my Moonſhy.—The Jailor being confined to his Bed by a dangerous Illneſs, his Affidavit could not be taken before me, but is taken before a Maſter of the Court—He is a Man of great Humanity, and excellent Character. Mr. Elliot did me the Honour of being frequently at my Houſe, while he was in Calcutta, and I think was preſent, and can verify moſt of the Paſſages which happened at my Houſe.—I hope, after theſe Teſtimonies and Vouchers, and a Peruſal of the Trial, no Impreſſions in Disfavour of the Judges, will remain in your Lordſhip's Breaſt, either for carrying the Sentence into Execution, or for treating the unfortunate Man with Rigour and Severity. And that your Lordſhip will be of Opinion, that the Judges acted more properly in yielding to the Impulſes of their own Feelings, when they granted the irregular Indulgence to the Priſoner, than they would have done, had they granted it on the Interceſſions of the Governor General and Council; Interceſſions founded, as I believe it will appear by the Minutes of their Conſultations, on Aſſertions by ſome of the Members of a Power in the Council to controul the Acts of the Court.

Theſe Interceſſions drew on a Correſpondence with me, which I cannot preſume to recommend to your Lordſhip's Peruſal; but as they would greatly elucidate the Diſputes between the Council and the Judges, I am ſure your Lordſhip will order them to be peruſed, before you form a Judgment in Disfavour of the Court. From the Manner in which they were pleaſed to treat me, I was obliged to deſire a Diſcontinuance of the Correſpondence. Though the Letters were wrote in my Name, they had the Approbation afterwards of the other Judges.

As to the Conſequences drawn from the Execution of Nundcomar, though the Gentlemen peremptorily decide on them, it is without the Attempt of Proof.—I do moſt ſolemnly declare, that I do not believe there is one Native, or one European in the Country, who, in his Heart, believes that any Conſideration but that of the Crime of which Nundcomar was convicted, and of the Defence made by him at his Trial, had any Influence in his Sentence or Execution.—The Natives were anxious that he ſhould not eſcape; and if he had, would have attributed it to Corruption in the Court; they univerſally declared, they did not expect his Execution; for they had never known a Man poſſeſſed of ſeveral Lacks, ſuffer by the Hand of the Law.—Rajah Goordaſs, his Son, entertains no Idea of any Injuſtice having dared to prefer Complaints againſt the Governor General.

This Idea, however deſtitute of Foundation, is prevalent among the Natives, and will naturally deter them from making Diſcoveries, which may be attended with the ſame fatal Conſequences to themſelves.

Puniſhment is uſually intended as an Example, to prevent the Commiſſion of Crimes; in this Inſtance we fear it has ſerved to prevent the Diſcovery of them.

15th September, 1775.

23. We agree with Mr. Haſtings, that not only he himſelf, but many other Perſons in this Settlement, have Reaſon to thank God, as he expreſſes it, for the Inſtitution of this Court.

10. At the ſame Time, we confeſs, we are not very anxious about inſtituting any Suit againſt him, in the Supreme Court.

having been done to his Father.[*] He has cauſed it to be intimated to me, that he was very deſirous to pay his Reſpects to me; but is poſitively enjoined entering my Houſe, by Members of the Council. I would by no Means wiſh it to be underſtood, that ſuch an Injunction has been laid on him, with a Purpoſe of encouraging the injurious Opinion which the Gentlemen ſtate to be prevalent among the Natives; nor that a ſimilar Language, held by ſome of their Dependants, before and during the Trial, was meant to influence the Judges by the Terror of ſo unjuſt an Imputation being caſt on their Characters, if they remained firm to their Duty.

But I ſubmit to your Lordſhip, if ſuch an Opinion is really prevalent, and actually impreſſes ſuch a Terror on the Natives, as to hinder Diſcoveries of Crimes and Abuſes in the Company's Servants, to prevent great Benefits, they would have been otherwiſe enabled to have done to the Public and Company.—Whether it was proper, candid, or juſt, to prevent a Viſit to me from the Son, which muſt, in a great Meaſure, by ſhewing his Senſe to the Public, take off any Apprehenſions that they might entertain of any Danger to themſelves, in making Diſcoveries; and would at the ſame Time clear the Way for the Gentlemen themſelves, to perform that Duty to the Public, which they aſſert is prevented by ſuch miſtaken Apprehenſions.

I do moſt ſincerely hope and believe, that the Inſtitution of the Supreme Court is felt as well as profeſſed to be a Bleſſing to the innocent Inhabitants of this Settlement and Country, and not, as the malignant Sarcaſm of the Minute would darkly inſinuate, a Protection to the Guilty: Of this, what Proof has been adduced?

Whatever Diſcoveries have been made, not one Proſecution has yet been brought to Trial in the Supreme Court: One (and I believe not more) has been inſtituted; the Gentlemen in Candour, might have waited the Trial of one Cauſe, and ſeen the iſſue of it, before they paſſed ſo ſevere a Cenſure on the Judges,—which they do by plain Implication (from what they in other Parts of their Proceedings ſay of Mr. Haſtings) that the corrupt Servants of the Company have Cauſe to thank God for the Inſtitution of a Court to protect them in their Crimes.

The Gentlemen have ſtated no Caſe in which either there was a Probability of Proof from Witneſſes, or in which Witneſſes had appeared, and ſince refuſed to give Teſtimony; but if they had Witneſſes, the Gentlemen are not over anxious about inſtituting a Suit againſt Mr. Haſtings in the Supreme Court: This Implication is too ſtrong not to be underſtood; which, becauſe the Judges are ſo partial to Mr. Haſtings, that Juſtice cannot be expected, where he is arraigned. Should not one Experiment have been tried, before ſo unworthy a Reflection had been caſt on the Court, or ſome probable Cauſe ſhewn; this implicates more Folly than Iniquity. Do they not know that an Appeal lies to His Majeſty in Council, from the Judgments of this Court? Do they not know, that all the Evidence muſt be given in open Court, be reduced in Writing, and ſigned by the Witneſſes? Do they not know it muſt be tranſmitted to England on Appeal, where the Juſtice or Injuſtice of the Decree muſt be apparent? Can they imagine the Judges ſo far loſt to all Fear and Shame, as to perform the blackeſt Iniquity with an abſolute Certainty of Deſtruction? This muſt be the Caſe; for the Judges are not yet charged with falſifying their Records.

The only poſſible Colour for this Imputation is, that the Judges have not followed the Examples of thoſe Gentlemen, in flinging off, with reſpect to Mr. Haſtings, the common Intercourſe of Civility.

The Gentlemen profeſs to have come into this Country impreſſed with (what I believe the whole Nation was when we departed from England) a high Senſe of the Virtue and Abilities of Mr Haſtings: It is not ſurprizing the Judges ſhould have been ſubject to the ſame Impreſſions; and though the Gentlemen publicly ſay, that ſince they have been in this Country, they have had Cauſe to form an Opinion diametrically oppoſite to what they brought from Europe, they have not been pleaſed to communicate to the Judges any of the Diſcoveries or Proofs by which their new Opinion has been formed.

The Judges are really and truly excepted from popular Report. Ignorant of the Crimes and Abuſes laid to the Charge of Mr. Haſtings, we found his Eſtimation in India, as high to the full as we had left it in England: Surely theſe Circumſtances ſhould have been ſufficient Apology with the Gentlemen, for not abſolutely reprobating a Character we had been ſo long taught to revere.—But ſhould any great Abuſe be brought forth in the Court, and properly proved againſt him in Evidence, I will pledge myſelf that there will be no Member of the Council more zealous in detecting and cenſuring him, than the Judges of the Court.

It muſt give us Pain to find him an Impoſtor, but it would raiſe our Indignation, and we ſhould do our Duty; in the mean Time, we ſhall behave as becomes us, ſcrupulouſly neuter in the Diſputes which agitate the Council, and ſhall accept and return ſuch Civilities, as any Members of the Board chuſe to communicate with us.

Minute, 15th September 1775.

We are ignorant of any Attempts to over-awe or reduce the Authority of the Supreme Court.

In Anſwer to this, I muſt refer to the Letters ſent me by the Council, in May laſt, concerning Nundcomar; the Letter addreſſed to Mr. Juſtice Hyde and Mr. Juſtice Le Maiſtre; the univerſal Tenor of the Minutes of the Council, whenever the Conduct of the Court of Judges made Part of their Conſultations. And muſt beg Leave to add, an Extract from the Minute 21ſt Nov. 1775, now before me. It alludes to the Caſe of Comaul O'Dien, and I ſhall hereafter obſerve upon it.

"The united Strength and Authority of the Governor and "Council, if *firmly oppoſed* to the Powers aſſumed by the Judges, "would, we think, *have reſtrained* them from going to thoſe Ex-"tremities to which they have ſince proceeded, in the divided "State of the Settlement:" And when we know that the vileſt Suggeſtions were induſtriouſly made to blacken our Characters, and diminiſh the Reſpect, Influence, and Authority, neceſſary to our Stations; we felt great Satisfaction in receiving what we know to be the united Teſtimony of the Opinion of the Settlement, with Regard to the Equity and Juſtice of our Proceedings.

23. At the ſame Time were doubtful, whether the Addreſſes lately preſented to the Judges will be received at Home as a ſatisfactory Proof of the high Reputation which the Judges themſelves tell us they have acquired in this Country.

It appears to me rather invidious to the Gentlemen to endeavour to take off the Force of the Truth, which they know the Judges repreſented.—They refuſed to ſend the Addreſs to England, through the Channel of their Conſultations, after they had aſſerted to Mr. Juſtice Le Maiſtre, that a Charge againſt him, which had been clearly confuted, muſt ſtand upon their Records, and be tranſmitted to England; the Refuſal was by a Letter not couched in the moſt reſpectful Terms. They now endeavour to vilify ſome few of the Perſons whoſe Names are to the Addreſs; as to that Part of the Grand Jury, indeed they have made no Objection, they were returned by Mr. Macrabie the Sheriff, and Brother-in-Law of Mr. Francis; in that of the Free Merchants, Mr. Playdell and Mr. Robinſon are only objected to, and their Characters are well known to Gentlemen in England. I am credibly informed, and believe it is capable of Proof, that great Pains were taken to prevent each Addreſs; but any Gentleman acquainted with the Inhabitants of this Town, will inform your Lordſhip, that there are but Two Men reſident in the Town of Calcutta, under the Deſcription of Free Merchants, who have not ſet their Hands to that Addreſs. One of them, Mr. Walker, who had been active in procuring it, ſubſcribed

25. In One of the Addreſſes above mentioned, the famous Nobkiſſen takes the Lead, with the Title of Maharajah, and is followed by Canto Baboo and Santerim Sing, Banyans of the Governor, and Mr. Middleton, and the Whole Tribe of Banyans: The Second appears under the Auſpices of Mr. Playdell and Mr. Robinſon, who have been both turned out of the Company's

pany's Service: The Third is headed by the Armenian Cojah Petruce, whoſe Connections with Koſſim Ally Khan, are very well known, and we believe are not yet ended.—As to the Diſmiſſion of Mr. Playdell, we have aſſigned our Reaſons, and diſclaim any Right in Mr. Haſtings to attribute our Conduct to other Motives.

ſubſcribed his Name and afterwards withdrew it; he has ſince, as I am informed, procured a Contract—The other, Mr. Lacham, has a Contract much in the Nature of a Monopoly, for Cheenam; and he gives out, that the Gentlemen are recommending him to the Court of Directors, to be admitted high in the Liſt of their Servants: Mr. Playdell, who ſigned it, has been diſmiſſed from his Office of Superintendant of the Police. If the Gentlemen think others have no Right to aſſign Motives for their Actions, different from what they give, with what Juſtice do they exerciſe that Right over the Actions of the Judges?

The Addreſs from the Hindoos, I thought no Ingenuity could divert from proving the Senſe of the Natives in this Town; but it ſeems it is ſigned by Black Banyans. Every Gentleman who has been in Calcutta, will inform Your Lordſhip, that there is hardly an opulent and reſpectable Hindoo in the Settlement of any Caſt, who is not, or has not been in that Character. They will likewiſe inform Your Lordſhip, that there is ſcarcely One Hindoo in the Settlement, except the Banyans of General Clavering, Colonel Monſon, and Mr. Francis, and one named Coſſinaut, who has not ſubſcribed to that Paper. Coſſinaut was one of the Firſt that propoſed the Addreſs: He had afterwards a Diſpute with the Governor General and Council about ſome Allowance on account of a Farm, as will appear on the Records of the Council, and declined ſigning the Addreſs; though the Gentlemen, by affecting to doubt, may endeavour to leſſen the Proof of them. As to the Reputation the Court has obtained, it merely ought to have made them cautious of poſitively aſſerting, that the Opinion was prevalent among the Natives, that the Court had been guilty of ſo atrocious an inſtance of Tyranny and Injuſtice, as to ſuffer Nundcomar to be executed, for having dared to prefer Complaints againſt the Governor General.—Nundcomar was a Bramin, a Caſt held in high Reputation among the Hindoos; yet the Hindoos acknowledge the Juſtice of the Court, and eſteem the Inſtitution of it a Bleſſing, after his Execution; many of the Addreſſors are Bramins. As to the Armenian Addreſs, the Gentlemen can hardly ſuppoſe Your Lordſhip and the Court of Directors ſo totally ignorant of the Affairs of theſe Provinces, as to hope to raiſe in you any ſerious Apprehenſions, on Account of Coſſim Ally Khan: If Cojah Petruce had really any Connections with him, or that ſigning that Addreſs could at all forward the Views of that exiled and abandoned Prince, it is well known, that Cojah Petruce's Connection with Coſſim, was by Means of his Brother, who was Coſſim's General; and it is as well known, that that Brother being ſuſpected by Coſſim, was aſſaſſinated by his Orders. There is not an Armenian of any Eſtimation, who has not ſubſcribed his Name.

26. The Notice taken of our Viſit to Nundcomar in Public Court, might entitle us to be ſerious on the Subject of Viſits; nevertheleſs, we only mention it as a ridiculous Fact, that ſince the Delivery of the Addreſs, Coja Petruce and Mrs. Petruce has interchanged ceremonious Viſits with Sir Elijah Impey and his Family.

The Remark on the Viſits paid by me and my Family, would indeed be ridiculous, was it not made ſerious by the Attempt to impute thoſe Viſits to mean, baſe, and unworthy Motives.—Whether it was before or after the Addreſs, that Petruce and his Wife firſt viſited me, I cannot pretend to remember at this Diſtance of Time; we have certainly viſited more than once: And Mr. Juſtice Chambers deſires me to add, that he and his Lady has likewiſe been in the Habit of interchanging Viſits with Petruce and his Family, both before and ſince the Addreſs.—Curioſity originally led us to accept the Viſit from the Armenian Ladies, and Complaiſance to return it; nor do we think ourſelves degraded by it; he of the firſt Family of the Nation in India. I think the Gentlemen pay me a Compliment, by ſhewing, by the Frivolouſneſs of theirs, and many others of their Charges, that notwithſtanding the Temper with which they write, they are obliged to ſelect Trifles, and afterwards to put falſe Conſtruction on thoſe Trifles. Whatever Opinions may prevail in England as to the Enormity of the Offences of the Company's Servants, and whatever Cauſe there may be for ſuch Opinions, I cannot induce myſelf to believe, that it can gain Credit; that all the Grand Jury,

all

24. We leave them to reconcile this Declaration with the Charges they bring againſt us in their Letter of the 9th Inſtant, of the Facility with which any Complaint againſt the Supreme Court and Judges of it, are recorded on our Conſultations. The united Teſtimony of the whole Settlement in their Favor, ſeems to exclude the Idea of any Complaints againſt their Conduct. The Fact, in the ſingle Inſtance of Mr. Le Maiſtre, when every Part of it was regularly communicated to him, as we received it from the Calcutta Committee.

Minute 21ſt November 1775.

If, for Reaſons of the moſt ſerious and political Importance, we endeavour to ſupport the Authority of the Country Government, and the Sovereignty of the Soubah, we have not only the Foreign Factories, but the Supreme Court of Judicature to contend with; they publicly deny the Exiſtence of ſuch a Government, and effectedly hold out the Perſon and Authority of the Prince to the Contempt of the World.

Minute 15th September 1775, Gen. Dep.

27. We are unable to tell how any Part of our Addreſſes to the Judges on Behalf of Roy Radachund, could reduce them to the Neceſſity of deciding on the Nabob's Sovereignty: Mr. Chambers was of Opinion that the Vakeel's Privilege might be diſmiſſed on other Grounds.

all the Merchants, all the Armenians, all the Hindoos, of the Settlement, could unite in giving a public Approbation and Sanction to a Court of Juſtice, guilty of the moſt atrocious Crimes; and by thoſe Crimes preventing them obtaining that Juſtice, which the Judges were ſent out to diſtribute among them.

There is no Contradiction in conſidering the Addreſſes as the united Teſtimony of the whole Settlement, and complaining of the Facility with which Complaints againſt the Judges are received on the Conſultations.

The Two Aſſertions are eaſily reconciled, by attending to the ſubject Matter of the Letter alluded to; it does not exclude Complaints from the Members of the Council, or of thoſe who wiſh to pay Court to them.

The Facility with which thoſe Complaints got upon the Conſultations, was the chief Matter that was remonſtrated againſt. A Letter to me, dated 16th May 1775, from the Governor and Council, gave riſe to it, that contained angry Complaints againſt the Proceedings of the Court, and was fully anſwered by authentic Vouchers which ſtand on the Conſultations. I incloſe a Copy of the laſt Paragraph of that Letter (N° 6.). Notwithſtanding Complaints were ſo long ago, not one Plea to the Juriſdiction of the Court has yet been brought on to be argued; on Enquiry made at that Time, it appeared, that not One Perſon had been arreſted who had any Concern whatever in the Revenue, or but One of any Rank.

The only Caſe in which the Authority of the Soubah has been mentioned in the Court, was that of Roy Radachund. Was it really a Matter of ſecret political Importance, to claim the Privilege of an Ambaſſador for the Vakeel of the Nabob, when neither the Vakeel or the Nabob entertained the leaſt Idea of ſuch a Right, I believe neither your Lordſhip nor the Directors, will ſee any political Conſequences in it. Had he not been obliged to plead to the Indictment, is there a foreign Nation that would have looked up the more to Mabouck's Sovereignty, or have thought there was leſs Authority in the Hands of the Company's Servants? it might have proved to them, and the Engliſh, that there was more. How was the Authority of the Country Government concerned? none of its Powers were abridged.— From the ſolemn and pompous Introduction of this Article, they ſeem to endeavour to perſuade even the Court of Directors, that the Perſon whom they order the Governor General and Council to hold out as the Oſtenſible, is a real Sovereign. They ought to reflect, that Situation is different from theirs, and that however willing we have ſhewn ourſelves, in all Inſtances, to aſſiſt the Intereſt and advance the Proſperity of the Company, we act upon our Oaths, and muſt determine by Evidence. They do their Duty in obeying their Superiors, by holding them out as the Oſtenſible: We ſhould be guilty of a Breach of Duty, and of Oaths, ſhould we ſolemnly and judicially determine him to be the acting ruling Sovereign of this Province. To hold out his Perſon to Contempt would be illiberal; or Opinions ſtanding on the Conſultation, will authentically contradict the Aſſertions.

The Judges did not think themſelves under any ſuch Neceſſity, they only declared, that the Company's Servants who ſet up the Sovereignty to the Nabob, could not do it to protect a Criminal, ſubject to the Juriſdiction of the Supreme Court, from the King's Laws. The Judges did not think that ought to be Matter of Doubt. The Gentlemen who made the Claim, muſt ſet up the Sovereignty of the Nabob as the main Queſtion: It is extraordinary that they complain that the Judges did not avoid that Queſtion. Roy Radachund, in the next Paragraph they ſay, knew nothing of the Right; the Nabob could know nothing of it, but by their Information. The Right of the Nabob could have been

Minute, 13th September 1775.

28. We believe it to be true, that Roy Radachund himſelf did not know that he was intitled to Privilege; he therefore did not claim it in the Firſt Inſtance; and we underſtand he made a Declaration to this Effect to the Chief Juſtice. The incloſed Narrative, delivered to us by Radachund, will ſhew by what Means that Declaration was obtained from him. At all Events his Ignorance of his Right was no Ground for depriving him of it.

21ſt November 1775.
Rev. Dep.

The united Strength and Authority of the Governor General and Council, firmly oppoſed to the Powers aſſumed by the Judges, would, we think, have reſtrained them from going to thoſe Extremities to which they have ſince proceeded.

decided againſt, had they not ſat it up: And for what Purpoſe was the Right claimed? to transfer a Criminal from the King's Court to Judges of their own Nomination: Had this been yielded to, it is obvious what Conſequences muſt have followed that Precedent. Our Opinion, and the whole Proceedings in the Caſe, are on the Conſultations; they are too voluminous to trouble Your Lordſhip with.

All that is material to me in this Paragraph, is the Attempt to charge me, with having, by Menaces and Anger unbecoming my Office, obtained an Affidavit from Roy Radachund. How the Affidavit was obtained, whether by thoſe who dictated an Affidavit, which this weak Man ſwore in Court, and which the Compilers of were cenſured by the Court for ſuffering him to ſwear, though it is probable, I cannot aſſert that Affidavit is alluded to in the Narrative they mention; a Copy of which I incloſe, (N° 7.) the Affidavit ſworn in Court, and the Opinion of the Court on the Claim of Privilege from Roy Radachund upon the Records of the Company, and muſt ſpeak for themſelves. I have, fortunately, a Copy of the other original Affidavit, which was taken at my Houſe, now by me, I ſhall incloſe it to Mr. Elliott, and requeſt him to give your Lordſhip a Tranſlate of it. Mr. Jackſon, whoſe Affidavit I incloſe, interpreted between me and Radachund Roy; he anſwered my Queſtions freely, and offered voluntarily to ſwear to them. Mr. Elliott afterwards came in; I gave the Anſwers of Radachund, which I had wrote in Engliſh, to Mr. Elliott, deſired him to explain them to him again, and tender the Oath to him. He paid me Compliments; he ſaid I ſaw into Men's Breaſts, and there was no ſuch Thing as ſecreting any Thing from me. Mr. Elliott and he went into the other Room; where Mr. Elliott, at his Deſire, retranſlated the Engliſh Anſwer into Perſian. It is a great Happineſs to me, loaded as I am with Calumny, that I have a Man of Mr. Elliott's known Honour to appeal to; He knows all the Circumſtances.—Radachund's want of Knowledge of his Right, if he really poſſeſſed it, was certainly no Cauſe for depriving him of it; but it is a ſtrong Evidence of the Non-Exiſtence of the Right itſelf.

Minute, 15th September 1775.
General Department.

23d. "We are ignorant of any Attempts to overawe or reduce the Authority of the Supreme Court."

How do the Gentlemen reconcile the Propoſitions of their Sentiments and Conduct, on the 15th September, were uniform with that of the 21ſt November? — I had the Honour of ſubmitting to your Lordſhip, by my Letter of the 19th September, the Reaſons on which the Judges acted in the Caſe of Comaul ul Deen. I doubt not your Lordſhip will be of Opinion, we acted with the greateſt Coolneſs and Deliberation when our Authority was publicly inſulted by the Second Arreſt of Comaul, for the ſame Cauſe, after he had been by us releaſed on Bail under an Habeas Corpus; and cannot think you will deem us chargeable with having proceeded to Extremities. We did not proceed for the Contempt, but ſolely inhibited the Calcutta Committee from continuing what appeared to us a very high Act of Oppreſſion. I ſtated to your Lordſhip, by my Letter of the 19th September, that I was well appriſed of what great Detriment a Rupture between the Governor General and Council and the Supreme Court would be, both to the Eaſt India Company and Nation; and pledged myſelf, that the Supreme Court would in that, as well as in every other Inſtance, act with ſuch Moderation, and make ſuch Conceſſions, that the State ſhould incur no Prejudice or Scandal.

The Candour of the Judges has (as I knew it would) enabled me to keep my Word; by mixing Moderation with Firmneſs, we have been enabled to do Juſtice, without that Diſturbance of the Peace which the Conduct of Council ſeemed to portend to this Settlement.

Had the *united Strength* of the Governor General and Council *been exerted* to reſtrain the Judges from *putting the Law into Execution*, and the Governor General and Council had maintained the Conſtruction which they have aſſumed to put on the Act of Parliament, by Force, your Lordſhip will judge who would have been the Aggreſſors by proceeding to *Extremities*. If the Governor General and Council take upon themſelves to determine the Law contrary to the Determination of the Judges, in one Inſtance, I cannot diſtinguiſh why they may not in all. I fear this Aſſumption tends not only to overawe, but wholly aboliſh His Majeſty's Court and Authority in this Country. They have likewiſe communicated to the Judges another Letter, dated 29th November 1775; in which they complain, that their Records are called for in Evidence; and that if they acted illegally, they might be liable to Civil Actions. How far the Judges are indebted to them for Candour and Fairneſs in both Inſtances, I will ſtate. I did not, till I am now informed, know that the Firſt Copy was to give me an Opportunity to England by the Ship that conveyed the Original Letter; it was ill calculated to anſwer that Purpoſe; it was not delivered till after the Ship had ſailed ſeveral Days for Europe; the only Chance I had of doing it, was by ſending a Diſpatch to Madras, over Land, to meet the Ship there; and as ſhe was to ſtay but a few Days on the Coaſt, the Probabilities were much againſt my overtaking her: I was obliged to take but very few Hours after the Receipt of the Letter to anſwer it, though I was then, as they well knew, confined by a dangerous Illneſs, and was the only Judge in the Settlement. The Diſpatch I was obliged to make, prevented me from having the Proceedings on the Return to the Habeas Corpus copied to accompany my Letter to your Lordſhip. I was obliged, therefore, to truſt to the Copies which they informed me they had ſent to the Court of Directors. I have ſince had the Honour of incloſing in mine of the 23d November, which I ſent to your Lordſhip, the true Returns, Proceedings, and final Concluſion of that Buſineſs. All the Facts I have ſtated, appear upon the Return itſelf; the Gentlemen, therefore, cannot avail themſelves of their Proteſt againſt any Repreſentation of Facts that may differ from theirs; if they repreſent truly, we muſt agree.

The Court of Directors will obſerve our General Letter to them of 16th September, was immediately communicated to Sir Elijah Impey; that as it contained a formal Charge againſt him and Mr. Juſtice Hyde, he might have an Opportunity of ſending Home by the ſaid Ship, any Anſwer or Repreſentation he might think it required. The *Candour* and *Fairneſs* of this Proceeding, intitled the Governor General and Council to expect that the Chief Juſtice, in return, would communicate to us ſuch Remarks on our Letters, as he might think proper to addreſs, either to the Court of Directors, or any of His Majeſty's Miniſters. Diſappointed in this juſt and reaſonable Expectation, we are reduced to the Neceſſity of *proteſting* againſt any *Repreſentation* of Facts in Queſtion, which may differ from ours.

I ſee in their Minutes they refer to other Dates and Facts, not on the Return, and which I am not converſant of. The other Copy was ſent Five Days after the Packet was diſpatched to the Ship which carried their Complaint to the Court of Directors. The Judges were obliged to ſend an Expreſs Boat down the River, which did not overtake the Ship till after ſhe had weighed her Anchors, though the Anſwer was diſpatched in the ſame Afternoon in which the Letter from the Governor General and Council was received.

In neither Inſtance do I think myſelf much indebted to the Gentlemen for their Candour and Fairneſs, which they inſiſt on; or for their Intention that the ſame Ship ſhould carry the Charge, and their Anſwers; and the leſs ſo, as General Clavering, in his Minute on the Day in which the laſt Letter was wrote, viz. the 29th November 1775 (as I underſtand) profeſſes his Fears and Apprehenſions that I might have an Opportunity of anſwering it by the ſame Ship.

I think the Court of Directors will be ſurprized at a Complaint from theſe Gentlemen, of Want of Candour in communicating what we may have wrote to Europe ſimply in our Defence. Though it was notoriouſly known to the whole Settlement, that the Gentlemen have aſſumed to themſelves, very early after our Arrival in this Country, to diſcuſs and cenſure the Conduct of the Judges in the moſt ordinary Acts of their Office, and entered ſuch Diſcuſſions on their Conſultations; yet they peremptorily refuſed Copies of their Minutes, both on the Applications of particular Judges (who had Reaſon to expect their Characters and Intereſts might be greatly prejudiced in England by the Publication of their Minutes) and of the whole Court. This Treatment became ſo alarming to the Judges, that they thought it neceſſary to ſend a Letter, in their joint Names, to require Redreſs from the Court of Directors. I had the Honour to incloſe a Copy of it to your Lordſhip, in a Letter, dated 2d Auguſt 1775; having firſt, as it was a Complaint againſt them, communicated it to the Governor General and Council before they had cloſed their Packet. I am not indebted to the Fairneſs and Candour of the Gentlemen who complain of the Want of it in the Judges, for a Sight even of theſe Minutes, which I am now commenting on, though they have been long ſince diſpatched to England. They were intended to be kept ſecret; but the Governor General has at laſt thought, that they ought in Juſtice to be communicated to me; and that is now done, under an Oath that I will not reveal the Contents in Calcutta. I now ſee, that the Judges had too great Cauſe for their Apprehenſions—I ſee, that in theſe ſecret Minutes, a public Appeal is made to the Engliſh Nation, againſt the Judges. How can we acknowledge the Candour of the Gentlemen, in communicating thoſe Letters, when they have induſtriouſly kept back theſe Minutes? Do the Charges conveyed in the Letter bear any Proportion to the Enormities charged or alluded to in the Minutes? States of Facts, Charges, and Inſinuations, which ſhould be inſtantly refuted on the Spot where the Matters were tranſacted, from the Knowledge of every Individual, when ſecretly conveyed from hence to England, may deſtroy the Characters and Fortunes of the beſt Men, if they ſhould chance to gain an Eighteen Month's Credit, before they can receive an Anſwer. As this is a Conduct I ſincerely deteſt, and to which I give no harſh Epithets, as I think it muſt be condemned by all Men of Honour or Honeſty, from the Motives on which it may be practiſed, and the fatal Conſequences which muſt follow from it, no Senſe of Injury ſhould provoke me to follow the Precedent by Retaliation; but I think myſelf clearly entitled to make the ſame Proteſt in the Judges and my own Name, as the Gentlemen have before made againſt the Repreſentation of our Conduct, or Motives aſſigned for it by the Gentlemen, to which they have afforded us no Opportunities of anſwering.

But they have not the Title they inſiſt on, to have their Remarks on their Letters communicated. On Peruſal of my Letter in anſwer to the Viſit, will appear to be ſimply (as it ſets out in profeſſing to be) a Juſtification of the Conduct of the Judges, and an Explanation of the Reaſons on which they proceeded. In the Matter complained of, no Charge whatſoever is attempted to be brought againſt any of the Council; and your Lordſhip will do me the Juſtice to admit, that, whatever Cauſes of Complaints I may have had, I have carefully avoided troubling your Lordſhip with them. This I did, from the Principle of preventing, as much as lay in my Power, His Majeſty's Miniſters from freſh Embarraſſments, ſenſible as I was of the great Streſs of critical public Buſineſs, with which they are loaded from all Parts of the Britiſh Empire. As I avoided making any Complaint againſt them, there could be no Uſe in communicating my Remarks.

Had they replied to them, I ſhould have the ſame Claim to ſee that Reply—It could only anſwer the Purpoſe of commencing an irritating Correſpondence. As I had before been drawn into a Correſpondence which I found tended to Altercation, and which, as will appear on their Records, I diſcontinued from Fear of its breaking into that Harmony which, for the public Good, ought to ſubſiſt between the Governor General and Council and the

Court, I did not think that the Letter ſent to the Court of Directors, indicated a Temper in the Gentlemen to make it precedent in me to enter into a new Correſpondence with them, as it muſt have ended in Diſputes ill-ſuited to my Character or Habits.

Though the Gentlemen complain of the Want of Communication of my Remarks on their Letter of Complaint againſt the Judges, they could not think they had any Cauſe of Complaint. We ſent to them the Copy of the Letter of the 2d Auguſt, in which we made a Complaint to the Court of Directors; they have never communicated their Remarks on that Letter to us, nor did we expect or deſire it.

Rev. Departmt. 21ſt Nov. 1775.

2. Reaſons do indeed ſuggeſt themſelves, which they do not think fit to mention, *diſdaining* to make any Reply to an Inſinuation ſo injurious to our Honour, which the ſtrongeſt Appearances entitle us to *retort*. We content ourſelves with proving the *Falſehood* of the Aſſertion on which it is founded, and ſhall leave to a *higher Authority* to decide on the Propriety of a Court of Juſtice dealing out ſuch *dark and ſiniſter Inſinuations*, which by Implication muſt affect the Characters of Individuals in the Government, without the leaſt Evidence.

The Beginning of this Paragraph is extracted out of the Opinion of the Court, given on the Second Habeas Corpus to bring up Comaul O Deen. There were Two Sums of Money claimed by the Committee: One he diſputed; the other he had tendered: They refuſed the Tender. The Court ſays, Reaſons ſuggeſt themſelves for their not accepting the Tender, which they do not care to mention. The Court ſuſpected, that the Reaſons for not accepting the Money tendered, was, becauſe the Committee were reſolved to be right in detaining him, at all Events; which they might not be, if they releaſed him from the undiſputed Demand. I have incloſed a Second Copy of that Opinion of the Court, to your Lordſhip. It is obvious, that Paſſage does not allude to the Gentlemen; it is addreſſed to the Calcutta Committee, and alludes only to them; they only were the Perſons who refuſed the Tender; no ſtrained Conſtruction can make it reflect on the Members of the Government; nor do I at all fear that your Lordſhip will think, that what was really intended a ſlight Cenſure for very reprehenſible Conduct, deſerves an Appeal to a high Tribunal, as being a dealing out of dark and ſiniſter Inſinuations.

Had the Court ſpoke out what they hinted at, they muſt have animadverted more ſeverely on the Committee. The Evidence clearly juſtified the Suſpicion; and I muſt beg Leave to appeal to your Lordſhip, whether there is any thing in the Words cited, when applied fairly and candidly from the Context from which they are extracted, that can give any Colour for the Gentlemen to take it to themſelves, or to make uſe of the harſh, indecent, and injurious Language which they have copiouſly beſtowed on His Majeſty's Servants ſitting in His Court of Juſtice. Could the Gentlemen themſelves underſtand theſe Words, as by extracting them from the reſt of the Sentence, they wiſh to have them underſtood by the Public? The Court has been anxious to treat their Characters and Perſons with the higheſt Reſpect: It is a Decorum the Court owes to itſelf. I defy them to cite any Dictum whatſoever, fairly applied, and not diſtorted (like the preſent Paſſage) from the Context, in which any Expreſſion or Inſinuation, injurious to them, has dropt from the Court, or any of the Judges.

The Compiler of the Minutes did not act unwiſely, in ſtraining as much as poſſible, to find out dark and ſiniſter Inſinuations from the Judges, to juſtify the Uſe of them in itſelf.

21 November 1775.
Rev. Dep.

3. To theſe Facts we add, the Calcutta Committee never received Orders from this Board to take Comaul O'Deen into Cuſtody.

It never was ſuggeſted that the Board gave the Orders; if they had given the Orders, it would have appeared on Record. Thoſe who are deſirous of paying Court, do not always wait for Orders.

4. The Office of Canongoe, on which ſo much Streſs is laid, has no Relation to the Collection of the Revenues.

From the beſt Information I am able to procure, and I have enquired from all capable of giving me Knowledge, this is a Miſtake; it is Part of their Office to ſpeak to Laws and Cuſtoms, in the Collections of the Revenues, as well as the other Matters mentioned. It was, as I am informed, propoſed by ſome Member of the

The Opinion of the late Roy Royan would be more material, if we could ſuppoſe it unbiaſſed, or founded in Knowledge. At the Time of his Examination he was not in Office. We have nothing to add to the Remarks we have made on his Character and Situation.

With reſpect to the Commercial Board, it will be ſufficient to remark, that it could not be unknown to the Chief Juſtice, that thoſe Gentlemen were not entirely unprejudiced againſt us; this Conſideration ſhould have made him cautious of accepting their Opinions, excluſive of the Impropriety of making an Application, in a Queſtion of a Revenue, to thoſe Perſons whom the Legiſlature had removed from all Truſt in the Management of the Revenue.

the Calcutta Committee, to take their Advice; which proves that Senſe of it. It is ſo ſtated in the Minutes of the Committee of Circuit, printed in Reports of the Houſe of Commons; and the Natives and old Servants of the Company, all declare it to be ſo. By the Examination of the Roy Royan, taken in the Minutes of the Clerk of the Crown, it appears, that though the Officers of the principal Canongoes were Sinecures they have aſſiſtant Canongoes in Calcutta; they were the Perſons called on. Raja Rajibullub, the late Roy Royan, was examined, as appears by the Extract from the Minutes of the Clerk of the Crown, herein incloſed, (N° 11.) on the 5th October, N°. 10. It will appear by the Conſultations, that he was not diſmiſſed from his Office till the 21ſt November: This Fact the Gentlemen muſt have known. I am a Stranger to the Remarks made on his Character and Situation: I always underſtood he was a Man of Honour and Integrity. I know he is the Son of Dolubram, to whom I have always been taught to think the Company was much indebted. As to Knowledge, I cannot pretend to anſwer for it; he muſt have had Experience; he had been many Years in his Office. The Opinion of the Sheriſte of the Khalſa is not objected to.

It was unknown to the Chief Juſtice, that the Commercial Board was prejudiced againſt theſe Three Members of the Council. In a Settlement, diſtracted by Party as this is, it muſt be difficult to find Perſons whoſe Judgments are totally unbiaſſed. After making the Reference to the Officers of the Khalſa, I propoſed taking the Opinion of the Servants of the Company, converſant in the Revenues. Several Gentlemen were mentioned; to whom Objections were made, that they were in dependant Situations, and that it would be hard to call upon them for their Opinions, as they might give Offence. It was then propoſed to take the Advice of all the Members of the Board of Trade reſident in Calcutta; they were the Senior Servants under the Governor General and Council, and had all of them been concerned in the Collections. They were independent, being exempted by the 20th Article of the laſt Inſtructions of the Company, from Diſmiſſion or Suſpenſion by the Governor General and Council. Mr. Juſtice Chambers, when I aſſiſted, thought the Propoſal juſt; and we both think ſo at this Day. As it is inſinuated, that we wiſhed, or rather, that the Chief Juſtice wiſhed, to obtain partial Opinions, I have incloſed Affidavits of Gentlemen preſent when the Propoſition was made to obviate ſo injurious an Imputation. (N° 11.)

I do not pretend to Intuition: I am arrived in a Country where the Manners and Cuſtoms are diſſonantly wide from that which I have left—I endeavour to procure Aſſiſtance from thoſe, whoſe Offices, Learning, and Experience, ought to enable them to give Information. On Queſtions of the Hindoo Religion and Laws, I have referred to the Pundits; on Queſtions of the Mahomedan Laws, to the Moulavies; on Queſtions, to judge how far the Collectors are guilty of Injuſtice, or act conformable to the Cuſtoms and Laws, I refer to the Officers of the Khalſa, and the Servants of the Company, longeſt concerned in thoſe Collections: From thoſe Informations, I form the beſt Judgment I am able, and I think by this Means I am leaſt liable to be deceived.

I leave it to others whoſe natural Lights are ſtronger, to act without extrinſic Informations.

If the Pundits are diſmiſſed, no Canongoes remain, and the Roy Royan is ignorant and partial, the Moulavies corrupt, the Servants of the Company not to be depended on, from whence do the new Members of the Council attain a ſuperior Knowledge of the Law and Cuſtoms of this Country?—I did not underſtand, by the Appointment of the Governor General and Council, that the Servants of the Company that compoſe the Commercial Board, were

5. Yet, in consequence of the Second Arrest of Comaul O'Deen, he (Mr. Cottrell) was ordered to appear before the Chief Justice, by a Summons signed by himself, to answer to a Charge on the Oath of Two Witnesses, of breaking the Peace, and Contempt of the Court. He attended in Obedience to this Order; but the Charge was never enquired into; no Evidence was examined to prove it, nor was any Notice whatsoever taken of this supposed Offence. We do not pretend to understand the Form of the Court; but it appears to be inconsistent with Justice, and a wanton Exertion of Authority, to summon a Gentleman for a high Offence, supposed to be committed in the Execution of his Official Duty, and afterwards not to examine Evidence, or bring the Question, in any Shape, to a Hearing.

Minute, 15th Sept^r 1775. General Dept.

The Ordering, Management, and Government of the Territorial Acquisitions and Revenues, are exclusive, as we conceive, vested in the Governor General and Council, in like Manner, and to all Intents and Purposes, as the same heretofore might have been exercised by the late President and Select Committee of Council.

Minute, 21ſt November.

Our Protest against the whole of the Proceedings of the Judges, is founded on that Clause in the Act, by which the Ordering and Management

were so far stigmatized by the Act of Parliament, that their Testimony was not to be received in a Court of Justice: I do not see the Impropriety of applying to them. On Questions concerning the Revenue, I should still prefer their Opinion, though removed from the Management, to that of the Three Gentlemen that impeach them, though they are trusted with the Management; because I conceive, that Questions concerning the Revenue, are more likely to be solved by those who have been long conversant in them, than by Gentlemen no longer parted from England than myself.

On another Occasion I have been censured for taking the Opinion of the known Oracles of Hindoo Religion and Laws, the Pundits.

I cannot conceive, by the State made by the Gentlemen, but that every candid Man will draw Conclusions directly opposite to that they are pleased to make; the Warrant is stated to be on Oath of Two Witnesses, it was my Duty to grant it.

With what Colour of Justice can the not obliging the Prosecutor to persist in his Complaint, be called a wanton Exertion of Authority?—Who, that reads this Passage, would not imagine that Mr. Cottrell himself had complained of arbitrary Proceedings? On that being surmised to him, it raised his Indignation so much that he declared, that after the manner Mr. Justice Chambers and the Chief Justice had behaved to him, it would have been an Imputation on his Honour if he had made any Complaint. The Truth is, I challenged Mr. Cottrell with the Promise he had made, that Comaul should not be again arrested till the Kutkinnedar had been called upon.—He assured me, that he had kept his Promise to the best of his Power—I intimated, that I thought the Matter ought not to be pressed further against him.—I enclose Mr. Cottrell's original Letter (N° 12) to me on the Subject, to Your Lordship, which will shew his Sense of the Transaction—Can any thing more strongly evince the Disposition of the Gentlemen towards the Judges, than the taking up the Matter as Oppression, which the Party injured respects as a Favour?

Their Attack in this Case is with a Two-edged Weapon, against which it is impossible to fence. Had I urged the Prosecution, I might, with more Justice have been arraigned with proceeding to *Extremities.*—I advised the dropping it, and am censured for a wanton Exertion of Authority. They might have known the Opinion Mr. Cottrell entertained of this Matter; they should have known it before they had interfered in it, to accuse a Court of Justice. Though my Name is made the Principal, I was called in by, and was only the Assistant to, Mr. Justice Chambers.

I have already endeavoured to answer the Construction put on the Act by these Gentlemen, in my Letter of the 19th September, which I had the Honour to address to your Lordship—I shall not trouble you with a Repetition.—This only I must observe, that they industriously confound the Ordering and Management of the Revenues, with the Conduct of the Company's Servants in the collecting of them. The Calcutta Committee is no more than a Collector; they are substituted in his Room; by the late Regulations of the late President and Council, they have no more Authority than the Collector had. The Court do disavow, and always have disavowed every Interference in the Ordering and Managing of the Revenue; they admit it solely and exclusively vested in the Governor and Council, but they hold they should be guilty of a Breach of Trust, if they refused to take Cognizance of its Violence and Oppressions made use of in the Collections; the Notoriety and Enormity of which, we have ever understood to be a principal Cause of our Mission. We should rather have expected the Aid of Government to have suppressed them,

than

Management of the Government of the Territorial Acquiſitions and Revenues, &c.

than that they would protect the Servants in the Exerciſe of them over the defenceleſs Natives.

Minute, 21ſt Nov. 1775.

Conſidering the Reſiſtance and Oppoſition given to us from all Quarters, we are, in Truth, unable to determine, whether any and what Powers are left to this Government.

If the Supreme Court muſt not interfere, who is to puniſh them?

It has been my Principle, and that of all the Judges, to ſupport Government as far as we lawfully can; I ſhould think myſelf an unworthy Servant of the Public, if I thought or acted otherwiſe.

The Court ſo far from reſiſting, has on all Occaſions (for which I appeal to the public Conſultations) been ſtudious to advance the Intereſt of the Company.

We have given extra-judicial Opinions of the Governor and Council. The Court of Sudder Adaulut has been aboliſhed. Our Opinion was formally aſked, and we anſwered by Letter of May 8th, 1775, that we thought it might legally ſit in Calcutta: All Criminal Juſtice was ſuſpended beyond Calcutta. By the ſame Letter we informed the Governor General and Council, that the local Juriſdiction of the Supreme Court did not extend beyond Calcutta; its Diſtricts, and the ſubordinate Settlements, is ſtill continued ſuſpended. Some of the Servants of the Company ſtating, that their Attendance on Juries would be detrimental to the Intereſt of the Company, we acquainted the Governor General and Council (who were the only proper Judges what Servants could not be ſpared from the public Buſineſs) that whoever they applied for, would be excuſed: They diſdained to make the Application—Should we be culpable if the Buſineſs of the Company ſhould ſtand ſtill?—we will take care that it ſhall not.

If by our Authority, as Dewan, confirmed to us by the Act of Parliament, a Farmer being confined for Arrears of Rent, the Supreme Court of Judicature takes the Cauſe out of our Hands, decide on the Merits and diſcharge the Priſoner:—

This is again the Caſe of Comaul. It is not true, that the Court have decided on the Merits; I refer to the Opinion of the Court (Nº 9.) He was diſcharged for the Defectiveneſs of the Return; and becauſe the Governor General and Council had not only deſerted, but gave Orders that it ſhould not be ſupported, we avoided determining on the Merits, though we ſaid we ſhould not have been willing to have diſcharged on the Defect of the Return, except we had Reaſon to think that we did not ſubſtantial Juſtice thereby. We ſo carefully avoided deciding on the Merits, that though the Anſwer of the Officers of the Khalſa, and of the Commercial Board, were deciſive of the Merits, we only declared, that *they were greatly in Favour of the Priſoner*—Could we be more cautious in preventing even the Appearance of making ſuch a Deciſion?

If we diſmiſs the Judge Advocate, he applies to the Supreme Court for a Mandamus, to reinſtate him in his Office:—

It can hardly be imputed as a Crime on the Judges, that an Application is made to the Court. Had they been candid, they would have ſtated, that the Mandamus was refuſed, and on Grounds which would ever after prevent Application of that Nature. The Court declared, that they had not *Authority* to grant it. Surely this is not an Aſſumption of Power.

If we diſmiſs the Secretary of our Board, we ſee him encouraged to bring an Action againſt his Succeſſor.

By whom do they ſee him encouraged? not by any Judges of the Court; it ſeems to be inſinuated, they will not aſſert, they know it not to be true; they ſhould have ſtated, that the ſole Queſtion in that Cauſe is, whether the 20th Par. in the Company's Inſtructions doth not inhibit the Governor General and Council from ſuſpending or diſmiſſing the Company's Servants, without giving a Copy of a Charge in Writing, and calling upon them to make their Defence; which the Inſtruction requires ſhall be tranſmitted to the Court of Directors. The Court have already declared, that they will not try whether the Cauſe of Diſmiſſion is good or not;

not. The Court will never permit the Power of the Governor General and Council to diſmiſs, to be diſcuſſed before them; they know the Conſequences, and will not in any Inſtance attempt to abridge the Authority of the Governor and Council over the inferior Servants. The Court have given no Judgment; they are at preſent deliberating on the Force of the Inſtruction, whether it is ſimply directory, and the Diſmiſſion good; it is not complied with, or in the Nature of a Condition precedent.

They ſhould have ſtated that the Cauſe of Action being below the Value of a thouſand Pagodas, the Judgment of the Court would have been final; and that to prevent it, the Court had propoſed to the Parties, and the Parties had conſented, that the Plaint ſhould be ſo altered as would entitle the Party againſt whom Judgment ſhall be given to an Appeal.

It is not material how the Cauſe is determined here, for each Party has undertaken to appeal it; the Opinion of the Court is againſt him.—We cannot be accountable for the Pleas that are made to the Governor General and Council; no Protection has in ſuch Inſtance been afforded by the Court, no Application has been made for it, nor has any Queſtion on the Subject been agitated by Judges in and out of Court.

According to the Doctrine mentioned by the Judges, there is ſcarce any Act of Government, however neceſſary or expedient, if it tends to control the Actions, or thwart the Intereſts of Individuals, may not expoſe the Members of the Council to Actions in the Supreme Court.

Theſe Doctrines ſhould have been ſtated, to prevent Miſrepreſentations of what might drop from the Bench, either through Miſtake or Intention.

The Court deſired that a Perſon might be appointed by the Governor General and Council, to take Minutes: That not having been complied with, the Court has conſtantly, in every Caſe where the Powers or Intereſts of the Company or Government could be affected or was alluded to, ſent authentic Copies of the Opinion of the Judges to the Governor General and Council. If any alarming Doctrines do exiſt, they will be found in the Conſultations. I deny the exiſtence of them; the Gentlemen ſurely do not mean to aſſert, that they are exempted from Civil Actions; I can ſee no ſuch Exemptions in the Act;—they are indeed from Criminal Proſecution, but the Charter defines the Mode in which they are to be proceeded againſt in Civil Suits.

We even Doubt whether we are authorized to prevent any Perſons from quitting the Provinces and going up the Country, though we ſhould be certain of their Intention to enter into the Service of a Foreign Prince. In theſe Circumſtances, many uſeful and obvious Regulations, for the Benefit of the Country muſt, neceſſarily be left unattended.

Theſe Doubts muſt have ariſen from the Nature of the Propoſition, not from any thing the Judges have ſaid, either in public or private;—this is the Firſt Time I have ever heard the Queſtion ſtated.

Not one Regulation has been offered to the Judges, to be regiſtered under the Act of Parliament. The Judges have, both in public and in private, aſſured every Member of the Council, that they were deſirous to concur in any Regulations they would Form for the Benefit of the Company. I fear they diſdain to form any Regulation which muſt have the Concurrence of the Court, according to the Requiſition of the Statute.

A general Re-coinage has been repeatedly recommended to us by the Court of Directors: Such a Meaſure is, without Doubt, indiſpenſibly neceſſary; but it is of a Nature too delicate and important, and likely to be attended with too many Difficulties, to be undertaken with Safety by a divided Government, and an *hoſtile* Court of Juſtice.

What can the Court poſſibly have to do with the Coinage? *Hoſtile* is an angry Word, and I refer to the whole Proceedings of the Court, which are on the Records of the Company, for the Juſtice of the Application. We have frequently been put on the Defenſive. We have and will continue to aſſiſt the Government in all fair and lawful Acts; but we hold it to be our Duty to maintain our Independence; and I know it to be inconſiſtent with the Wiſdom and Juſtice of my Sovereign and His Miniſters, by any Cenſure on our Conduct for maintaining it with Decency and Firmneſs, to teach future Judges to be obedient to the Dictates of the Governor General and Council.

We could point out a Number of other Objects which would deserve

The Injuſtice of this Obſervation, which can only apply to the Caſe of the Habeas Corpus, will be anſwered by the Proceedings themſelves;

deſerve our Attention, and of Abuſes which call upon us for Redreſs; but this is not a Seaſon for a mere Majority of the Council to undertake any Meaſure for the public Service, in which the learned in the Laws of England can diſcover any thing to cavil at.

Whilſt a Standard is publicly hoiſted againſt our Authority, and every Individual in the Country invited to repair to it; while Protection is given to every Man who denies or reſiſts the Authority of Government; and while the Governor General takes a decided and willing Part in every Meaſure that leads to degrade the Council and diſarm us of lawful Powers; we are not ſanguine enough, that any Efforts of ours ſhould be equal to the Execution of the Truſt repoſed in us.—We cannot anſwer for the Collection of the Revenues, we cannot anſwer for the internal Government of the Country, nor for the Safety of the State; our utmoſt Endeavours ſhall be exerted to preſerve the Peace, to promote the Welfare of the Company, until the Neceſſity or Expediency of a new Arrangement ſhall be determined at Home; but diveſted as we are of all Powers, we owe to our Safety and Character to diſcharge ourſelves in the moſt ſolemn Manner of all Reſponſibility.

themſelves; it will be ſeen how often Time was given for Amendments and Re-amendments; and the Court, ſo far from caviling, inſtructed the Advocates what they ought to inſert.

I call on the Gentlemen to point out any Caſe that has come before the Court, in which any Cavil has been made, or in which the Court have not aſſiſted the Company.

In the Caſe of Pavaſey, a Foreigner, now before the Court, Three Returns have been made; the Firſt, a Claim to ſend him to England, under the Acts of Parliament which direct the ſending Britiſh Subjects to be tranſported to Great Britain; every one glaringly defective in Form, Subſtance, or any State of Right.

The Court having Reaſon to think that the Governor General and Council have done Right in impriſoning the Man, have allowed from the End of laſt Term to the laſt Week in the preſent Term, to make the Return, in order to enable them to procure a State of Facts from; and have promiſed, if that is not ſufficient to allow more: Is that an Act of an hoſtile or cavilling Court of Juſtice?

Whatever want of Authority the Gentlemen may complain of, or whatever the Effects of Mr. Haſtings's Conduct are, to diſarm them of their Powers, it muſt be underſtood that our Cauſe is totally diſconnected with his.

The Company and the Nation muſt decide between them and Mr. Haſtings.—I can anſwer the declamatory Part of this Period, in which the Run of the Sentence has been evidently more attended to than the Truth of the Facts—That the Court is open to the Suitors, none are invited, but all may fly for Juſtice.

That but Two Perſons have applied for the Protection of the Court, in any Caſe in which the Authority of Government can on any Pretence be aſſerted to have been called in Queſtion.—To Mr. Stewart that Protection was denied.—To Comaul O'Deen it has been granted; and I hope your Lordſhip will think on juſt Principles: But if the Court has erred, I appeal to your Lordſhip, to my Country, and to my King, whether this Inſtance is ſufficient to juſtify the Gentlemen, who have in their Hands the whole Power of Government, ſo ſolemnly to renounce all Reſponſibility (which if they are really without Power, they cannot be ſubject to) and to fill the Ears of their Employers and the Nation, and of their Sovereign, with ſuch falſe and ill-grounded Alarms——

I muſt apologize to your Lordſhip, for having entered into a Diſcuſſion, of the Length of which I had no Conception when I began, and for the Hurry in which it has been put together, and for the not having abridged it when finiſhed.

Theſe are the only Minutes I have ſeen; I have too great Reaſons to believe they are not all in which the Conduct of the Judges has been impeached—I have heard of voluminous Letters ſent to Lord North.—I cannot doubt, that as the Court takes up a conſiderable Share of the Public Conſultations, it is largely deſcanted upon in his Lordſhip's private Correſpondence; ſhould that be the Caſe, or ſhould the Charges have aſcended ſtill higher, I muſt beg the Favor of your Lordſhip to ſuffer theſe Remarks to meet ſuch Parts of the Accuſations as they are intended to obviate; and muſt intreat your Lordſhip, not only to ſuſpend your own Judgment, but to intercede for me and the other Judges with His Majeſty and His Miniſters, not to lend a willing Ear to any Charges, Invectives, Inſinuations, or Alluſions in Papers, either public or private, tending to prejudice our Fortunes or Fame, before the Facts are examined, or we have an Opportunity of contradicting them if miſrepreſented. My Anxiety muſt be my Excuſe for deſiring Interceſſion in a Matter which I know the Juſtice and Candour of my Sovereign and His Miniſters would grant to the meaneſt Subject unaſked.

I have the Honor to be,
with the greateſt Reſpect
Your Lordſhip's very much obliged
and very humble Servant,
E. Impey.

N° 29.

References to the foregoing Letter.

(N° 1.) Mr. Farrer preſents his Compliments to Mr. Robinſon—He called on him this Morning, in order to have ſubmitted to his Peruſal and Conſideration, the incloſed Petition to the Judges, in Behalf of Maha Rajah Nundcomar. If Mr. Robinſon had approved of it, and ſigned it, Mr. Farrer would have immediately ſent it to the other Gentlemen of the Jury.—Should be obliged to Mr. Robinſon if he will, without Delay, favour Mr. Farrer with his Sentiments in reſpect thereto, as Mr. Farrer wiſhes to get it determined one way or other To-day; as the State of Suſpence in which the Unhappy lies, is, as may well be conceived, very dreadful, and he has ſtill ſome Hopes from the humane Interceſſion of the Jury in his Favour.

Tueſday Morning, Seven o'Clock.

Mr. Robinſon's Compliments to Mr. Farrer; and begs him to reflect the Nature of a Britiſh Juryman's Oath and Opinion muſt have been ſuch at the Time of giving their Verdict, that it can never with Propriety be altered.

Sir,

There is nothing, as I conceive, in the Petition which I left for your Peruſal, which either expreſſes or implies an Alteration of Opinion in the Jury, but quite the Reverſe: It ſtill ſtates the Jury to be of the ſame Opinion; it ratifies and confirms their Verdict; and only ſubjects Reaſons why the Criminal may, under the peculiar Circumſtances of his Caſe, be thought worthy of ſome Degree of Mercy; ſurely there can be no Impropriety in this, as it will hardly be denied but that the ſtrict Requiſition of a poſitive Law may in many Caſes oblige a Jury, in Conformity to the Tenor of their Oath, to find a Perſon guilty, where there may, notwithſtanding, be many Reaſons for an Application for Mercy: Whether this is a Caſe of that Nature, or not, it is not my Province to determine, neither do I wiſh to influence any one either one way or the other; ſuffice it for me, in Compliance with earneſt Solicitation of an unhappy Victim, to have acquitted myſelf to my own Feelings in having made the Application: You will judge and act for yourſelf.

I am, Sir,
Tueſday, Aug. 1ſt 1775. Your moſt obedient humble Servant,
Thomas Farrer.

To Thomas Farrer, Eſquire.

Sir,

I had every tender Feeling with which the human Heart can be impreſſed, for the Convict, both at and after his Trial; nor would the ſtrict Requiſition of a poſitive Law, that in many Caſes obliges a Jury, in Conformity to the Tenor of their Oath, to find a Perſon guilty, have prevented myſelf and Brethren from recommending him to Mercy, had our Conſcience admitted our ſo doing. The Veneration I have for the Bench of Judges before whom the Maha Rajah Nundcomar was tried, will not admit me to doubt, but if they think him an Object of Compaſſion, no Want of ſuch Lenity will be omitted, by recommending him to our moſt gracious Sovereign for his Pardon: I muſt in this Caſe judge and act for my Conſcience; and at the ſame Time I cannot help remarking, that the offering ſuch a Petition for me to ſign, very much hurts my Feelings, as it is on a Subject which in my Opinion no Perſon has a Right to interfere in.

Calcutta, I am, Sir,
1ſt Auguſt, 1775. Your obedient humble Servant,
J. Robinſon.

Mr. Belli preſents his Reſpects to Sir Elijah Impey; and at Mr. Robinſon's Requeſt incloſes him a Second Addreſs from Mr. Farrer to Mr. Robinſon, with Mr. Robinſon's Reply to it.—The Word *Viſion*, in Mr. Farrer's Addreſs, is very remarkable.

This Buſineſs gives Mr. Robinſon much Uneaſineſs; and he hopes Sir Elijah will permit him to make a Complaint to him, if Mr. Farrer perſiſts in his Solicitations.

(Nº 2.) This Deponent, Kenneth Murchiſon, Surgeon, maketh Oath and ſaith, That on or about Wedneſday the Tenth of May One thouſand Seven hundred and Seventy-five, Sir Elijah Impey, Knight, requeſted him this Deponent, to go to the Gaol in which Maha Rajah Nundcomar was then confined, and to report to him the ſaid Sir Elijah, the State and Condition of the Health of the ſaid Nundcomar: That in conſequence of the ſaid Requeſt, he the ſaid Deponent went to the ſaid Gaol, where he found the ſaid Nundcomar extended on the Ground, in a ſeemingly weak and helpleſs Condition; that the ſaid Nundcomar (as the Interpreter told this Deponent) declared that he had received no Manner of Suſtenance ſince the Saturday next preceding that Day; that the ſaid Nundcomar ſpoke in a low and feeble Voice.—And this Deponent further ſaid, That he felt the Pulſe of the ſaid Nundcomar; that his Pulſe appeared to him not weak but regular, and not as he ſhould have expected in a Man who had faſted ſo long. And this Deponent further ſaith, That he does not mean to ſay that he had not faſted that Length of Time, but if he had really faſted ſo long, it was an extraordinary Caſe, and inconſiſtent with the Symptoms which, in the beſt of his Judgment, believes muſt have appeared. And this Deponent further ſaith, That on his Return to Sir Elijah, he made his Report to the Effect abovementioned; and further acquainted the ſaid Sir Elijah, that if in Fact he had not eat or drank during the Time abovementioned, it was neceſſary he ſhould take Suſtenance before the next Morning.

Kenneth Murchiſon.

Sworn this 17th Day of January
1776, before me,
E. Impey.

(Nº 3.) Matthew Yeandle, Keeper of the public Gaol of Calcutta, maketh Oath, That on the Sixth Day of May laſt paſt, Maha Rajah Nundcomar was taken up on a Charge of Forgery, and committed by Mr. Juſtice Le Maiſtre and Mr. Juſtice Hyde to the Cuſtody of this Deponent. And this Deponent further ſaith, That he quitted his Bed-room in order to accommodate the ſaid Marajah Nundcomar therewith, and gave up the Uſe of an outer Room thereunto adjoining, for the Accommodation of the Attendants of the ſaid Marajah Nundcomar. And this Deponent further ſaith, That the ſaid Rooms are detached from the other Part of the Gaol, and have no Communication whatſoever with the Felons or Debtors therein confined. And this Deponent further ſaid, That he was preſent when the ſaid Marajah Nundcomar was arreſted; and that the Room wherein he was confined is a larger and much better Room than that from whence he was taken, and better than any of the Rooms in the Houſe of the ſaid Marajah Nundcomar. And this Deponent further ſaith, That he received repeated Directions from the Chief Juſtice, to treat the ſaid Marajah Nundcomar with all poſſible Tenderneſs, and to grant him every Accommodation and Convenience his Situation would admit. And this Deponent further ſaith, That neither before or after his Condemnation, Irons were affixed on his Feet; and every Perſon who was deſirous of ſeeing him had free Acceſs at all Times of the Day; and that the ſaid Marajah Nundcomar was viſited during his Confinement by Captain Webber, One of the Aid de Camps to General Clavering, and Mr. Addiſon, Secretary to the General, and the Two Mr. Fowkes; and that Mrs. and Miſs Claverings, and Lady Anne Monſon, ſent their Compliments to, and enquired after, the ſaid Marajah Nundcomar. And this Deponent further ſaith, That the ſaid Marajah Nundcomar refuſed taking any Suſtenance in the ſaid Gaol; and that he did not ſee any Alteration whatſoever in his Countenance, Speech, or Appearance, from the Time of his Confinement until the Evening of the Tenth Day of May laſt, when the ſaid Marajah Nundcomar altered the Tone of his Voice, and ſpoke ſo low that he could ſcarcely be heard, and ſeemed to faint; that he could not lift his Head from the Ground. And this Deponent further ſaid, That the Chief Juſtice ſent a Phyſician that Evening to viſit the ſaid Marajah Nundcomar, and ſent for him this Deponent. And this Deponent further ſaith, That at the Time he was at the Houſe of the Chief Juſtice, Mr. Juſtice Le Maiſtre and Mr. Juſtice Hyde were there; and this Deponent heard the Chief Juſtice deſire Mr. Juſtice Le Maiſtre (under whoſe Warrant, and that of Mr. Juſtice Hyde, the ſaid Nundcomar was confined) to conſent that the ſaid Marajah Nundcomar might be permitted to go to the Outſide of the ſaid Priſon Gate. And this Deponent further ſaith, That the ſaid Mr. Juſtice Le Maiſtre was very unwilling ſo to do, and alledged, that he conſidered the Conduct of the ſaid Marajah Nundcomar merely Artifice; and that he thought ſuch Order would be illegal, and therefore could not join in it. And this Deponent further ſaith, That he received Directions for permitting the ſaid Mahah Rajah Nundcomar to go to the Outſide of the ſaid Priſon Gates, as he had requeſted, about Ten o'Clock of the Night of the ſaid Tenth Day of May, and immediately communicated the ſame to the ſaid Mahah Rajah Nundcomar. And this Deponent further ſaith, That the ſaid Mahah Rajah Nundcomar did not avail himſelf of ſuch Permiſſion until the next Day, between the Hours of Ten and Twelve in the Forenoon; and that he walked from his ſaid Room to the Outſide of the ſaid Priſon without any Aſſiſtance, and did not appear anyways exhauſted, and had recovered his Speech, and talked in the ſame Tone of Voice he uſually did. And this Deponent further ſaith, That the ſaid Mahah Rajah Nundcomar was, during the ſaid Five Days, frequently in private with only his own Servants, and had Water taken to him; but that he did not ſee any Food conveyed to him. And this Deponent further ſaith, That the uſual Diet of the ſaid Mahah Rajah Nundcomar was Sweetmeats, which might have been eaſily conveyed to him without the Knowledge of this Deponent. And this Deponent further ſaith, That the ſaid Mahah Rajah Nundcomar always conceived Hopes of being releaſed, even to the Day before his Execution, when he wrote a Letter to the Council for that Purpoſe; and that Meſſages were continually ſent to him by General Clavering and Colonel Monſon, and Anſwers returned. And this Deponent further ſaith, That he always underſtood, both from the ſaid Mahah Rajah Nundcomar and his Attendants, that it was from the Influence of General Clavering and Colonel Monſon that he expected his Enlargement. And this Deponent further ſaith, That the Witneſſes produced by Mahah Rajah Nundcomar at his Trial, were, from the Time of his Confinement to the Day of Trial, ſhut up with him in his Room for the Space of Three or Four Hours each Day; and that he ſaw them frequently making Marks on Paper. And this Deponent further ſaith, That ſome Time after the Refuſal of the ſaid Mahah Rajah Nundcomar to take Suſtenance in Gaol, that is to ſay, immediately after his Condemnation, he did eat and drink in the ſaid Gaol till the Time of his Execution, which was about Twenty Days.

Matthew Yeandle.

Sworn at Calcutta this
18th Day of January
1776, before me,
Richardſon Mc Veagh,
One of the Maſters of the S. Court.

(A true Copy.)

(N° 4.) Samuel Tolfrey, of Calcutta, in the Kingdom of Bengal, Gentleman, maketh Oath, That he, this Deponent, was Under Sheriff of Calcutta aforeſaid, on the Sixth Day of May laſt, and committed Mahah Rajah Nundcomar to the Public Gaol of Calcutta aforeſaid, by virtue of a Warrant for that Purpoſe under the Hands and Seals of Mr. Juſtice Le Maiſtre and Mr. Juſtice Hyde. And this Deponent further ſaith, That on the 10th Day of the ſaid Month of May, he was informed by Matthew Yeandle, Keeper of the ſaid Gaol, That the ſaid Mahah Rajah Nundcomar was expiring, owing to his having refuſed to take Suſtenance in the ſaid Gaol; in conſequence of which Information, he, this Deponent, went to the ſaid Gaol, and found the ſaid Mahah Rajah Nundcomar extended on the Floor; that he was, or pretended to be, unable to lift up his Head, and ſpoke in ſo faint a Voice, that this Deponent was under the Neceſſity of kneeling cloſe to the ſaid Mahah Rajah Nundcomar, in order to diſtinguiſh what he ſaid: And this Deponent further ſaith, That he ſaw the ſaid Mahah Rajah Nundcomar Two or Three Times, between the Time of his Confinement and the ſaid Tenth Day of May; and that till that Evening he was firmly perſuaded, that the Refuſal of the ſaid Mahah Rajah Nundcomar was only a Pretence to procure his Enlargement. And this Deponent further ſaith, That he verily now believes, that the Illneſs of the ſaid Mahah Rajah Nuncomar, on the ſaid Tenth Day of May, was moſtly affected.

Sl Tolfrey.

Sworn at Calcutta, this
18th Day of January,
1776, before me,
E. Impey.

(N° 5.) Robert Ghanſiam Doſs, Moonſhy to Sir Elijah Impey, Knight, maketh Oath, and ſaith, That on Monday next after the Commitment of the Mahah Rajah Nundcomar, he, this Deponent, delivered a Meſſage to the ſaid Sir Elijah Impey from the ſaid Nundcomar, acquainting the ſaid Sir Elijah that he could not eat, drink, or perform his neceſſary Ablutions, in the Place in which he was then confined, without loſing his Caſt—That immediately on the Receipt of the ſaid Meſſage, the ſaid Sir Elijah diſpatched him this Deponent, to the ſaid Nundcomar, to know how he might be accommodated; to which the ſaid Nundcomar made Anſwer, That he deſired him to acquaint Sir Elijah, that the only Accommodation conſiſtent with his Caſt was, that he ſhould live in a Houſe in which no Chriſtian or Muſſulman had ever been, or ſhould be admitted; and that he might be at Liberty to waſh Once a Day in the Ganges.

That, on delivering this Meſſage to the ſaid Sir Elijah, he deſired this Deponent to acquaint him, the ſaid Nundcomar, that he had no Authority to give ſuch Direction, but that he would direct the Gaoler to give him all Accommodation that was conſiſtent with his, the Gaoler's, Safety, and that all Perſons ſhould have free Acceſs to him; and that this Deponent did intimate the ſame to the Gaoler.

Robert Ghanſiam Doſs.

Sworn the 16th Day
of January, 1776,
before me,
E. Impey.

(N° 6.) *Extract of a Letter from the Governor General and Council, dated the 16th May 1775.*

To Sir Elijah Impey.

We feel the Inconveniences ariſing from the Want of ſuch a preciſe Limitation of the Powers of your Court, and are concerned, that the Country and the Revenues cannot fail to ſuffer by the Arreſts of ſo many Natives of high Rank as have already been ſeized by Warrants from the Judges, and obliged to anſwer to Civil Suits in the Supreme Court.

(N° 7.) At Eight o'Clock I went to the Chief Juſtice's Houſe, to deliver a Letter from the Nabob to him; I had before delivered another Letter from the Nabob to the Chief Juſtice. The Chief Juſtice told me not to bring again a Letter of that Nature from the Nabob; that if I did he would be very angry; and aſked me by whoſe Advice the Nabob had written that Letter. I aſked him, How I ſhould know by whoſe Advice he had written it? the Chief Juſtice ſaid, "Don't let of this "Kind come to me again." He then aſked me if I knew what a Vakeel was? and what an Ilchee was? I anſwered, That they were Perſian and Arabic Words; that they would be found (preciſely defined) in Books, but that I could not anſwer with Preciſion myſelf. Upon hearing this he grew in a Paſſion, and again aſked me, Whether there was, or was not, any Difference between the Two Words? I anſwered, That perhaps there might be ſome Difference. He then aſked me, Who wrote the Arzee which I had cauſed to be written? I told him, That probably Mr. Farrer my Counſel, and Mr. Jarrett my Attorney, had written it; that I had told thoſe Gentlemen that I was a Servant to the Nabob, and on that Account they had probably written it. He then aſked me, Whether I knew or not that I had been turned out? I told him, That I had never heard of it till the firſt Time that I had delivered an Arzee; that after that I had been turned out during Ten Days. The Chief Juſtice then aſked me, From whom Mr. Farrer had heard it? I aſked him, How I ſhould know any Thing about that he hears that I ſhould be able to ſay from whom he heard it? He then aſked me If I knew the Meaning of *Public Miniſter?* I ſaid, I did not know. He then told me, that the Words *Public Miniſter* were written in my Petition; and aſked me, If I did not know what they were? Did not they, added he, explain to you the Tenor of your Arzee? I told him, That I had before told them the Tenor of the Arzee; and that they had explained it to me (when done) that there was written in it that I was Head Vakeel of the Nabob; that I was not a Houſeholder of Calcutta; that I had been Vakeel during Three Years; that in that Time I had never been in the Service of any Engliſhman; that Words to that Effect were written, that I did not recollect any further. He then aſked me, What I thought? whether, if I were guilty of any Violence or Injury to any Perſon, the Gentlemen of this Place could, or could not, take Cognizance of it? I anſwered, That the Gentlemen were the Maſters here; that I did not know whether they would, or would not, hear a Complaint againſt me; that they knew, that if Gentlemen of this Place pleaſed, they might, for the Satisfaction of the Nabob, ſhew Indulgence to his Servants? Here he then aſked me, If I ſhould go or not to the Committee, if I were ſent for? I aſked him, Why I ſhould not go if the Committee ſent for me? that I certainly ſhould go. He aſked me, If ever I had gone? I anſwer, That I one Day received a Letter, and in conſequence went. He then aſked me, What Interrogations they put to me? I told him, That the Gentlemen of the Committee aſked me whether Comaul ul Dien gave the ſeveral Arzees to Mr. Fowke, to keep as a Depoſit, or to give them in to the Committee. The Chief Juſtice then told me to write down what I had ſaid, and ſwear to it: I told him, that I had not my Senſes well about me; that I was like a Perſon diſtracted; that I could not make Oath at that Time; if he would give me Leave, I would go to, my own Houſe, and when my Mind was calm would write in Perſian, bring it to him, and ſwear to it. "You muſt ſwear to this," ſaid he. He then called for Mr. Elliott, and gave to him what he had written with his own Hand in Engliſh, to have it turned into Perſian. Mr. Elliott called a Moonſhee, and indited in Perſian, and told me to ſwear it. I told him, that for ſeveral Days, from Anxiety on Account of unexpected Calamities, I had neither Appetite nor Sleep; that from that I was as a Perſon diſtracted, and that my Underſtanding had left me. He aſked, Why my Underſtanding had left me? I told him, That ſuch a Calamity had fallen upon my Patron, that my Mind could not but be diſtracted; that he muſt know ſo. The Chief Juſtice ſaid, What can I do? I anſwer'd, That the Anſwers he had taken from me in Writing, whilſt I was in that diſtracted State of Mind, I knew not what theſe might chance to be, more or leſs than the Truth, that on that account I could not ſwear to it; that he was the Ruler of the Court; that he was as a Repreſentative from God; that he was come into my Country for the Preſervation of Religion and Morality; that if I, at that Time, ſhould make Oath, I ſhould ſuffer in Life to come. Mr. Elliott ſaid, I might very well ſwear to what I had ſaid. I then ſwore to what occurred at that Time to my Recollection. I now recollect what I have above written, there may be ſome Difference; God knows, I remember that the Chief Juſtice wrote down the Anſwer to each Queſtion, but not the Queſtions.

William Jackſon, of Calcutta, at Fort William, in Bengal, Gentleman, maketh Oath and ſaith, That being preſent at the Houſe of Sir Elijah Impey, Knight, Chief Juſtice of the Supreme Court of Judicature at Fort William, in Bengal, on the Fourth Day of July, One thouſand Seven hundred and Seventy-five, between the Hours of Six and Eight in the Morning, he was called upon by the ſaid Sir Elijah Impey to interpret between him and Roy Radachurn, then and there being preſent; that he this Deponent very well recollects, that the ſaid Radachurn then preſented to the ſaid Sir Elijah Impey, a Letter, directed in the Perſian Language, on which was the Seal or Chop of the Nabob of Moorſhedabad; that the ſaid Sir Elijah Impey then deſired this Deponent to inform the ſaid Radachurn, that if the Letter he the ſaid Radachurn then brought, was to the ſame Purport as what had formerly been delivered by him from the Nabob to the ſaid Sir Elijah Impey, it would avail him nothing; and deſired to know by whoſe Order or Advice the ſaid Letter was then ſent? that Radachurn then anſwered, How ſhould I know by whoſe Advice the Letter was wrote? that the ſaid Sir Elijah Impey then deſired this Deponent to aſk the ſaid Radachurn the Difference between a *Vakeel* and an *Ilchee*; that the ſaid Radachurn anſwered, that he did not know the exact Difference, but that there was a Diſtinction in their Meaning; that the ſaid Sir Elijah then deſired this Deponent to aſk the ſaid Radachurn who drew out the Affidavit to which the ſaid Radachurn had been ſworn, and whether before his ſuch ſwearing thereto, the ſaid Affidavit had been fully explained to him? That the ſaid Rachachurn then returned for Anſwer, That he believed that the ſaid Affidavit was drawn either by Mr. Farrer his Counſel, or Mr. Jarret his Attorney; but what Anſwer he gave to the laſt Part of the laſt Queſtion this Deponent does not recollect. That the ſaid Sir Elijah Impey then deſired this Deponent to aſk him the ſaid Radachurn, If and when he firſt knew of his the ſaid Radachurn's being then turned out of his Employ of Vakeel to the Nabob of Moorſhedabad? to which the ſaid Radachurn replied, That Mr. Farrer had told him, that he had been turned out Ten Days. That the ſaid Sir Elijah Impey then deſired this Deponent to repeat to the ſaid Radachurn the Engliſh Words, "*Public* "*Miniſter*," and aſked, If he knew the Meaning of them? which this Deponent did; and ſaid Radachurn replied, That he did not. That the ſaid Sir Elijah Impey then deſired this Deponent to aſk the ſaid Radachurn, If in his then Situation of Vakeel to the Nabob, he the ſaid Radachurn was to commit Murder, Theft, or any other noxious Crime, he ſhould not conſider himſelf liable to be puniſhed therefore, according to the Engliſh Laws; and that if the Council were to ſend for him he ſhould not eſteem himſelf obliged to go? that the ſaid Radachurn then anſwered, That the Engliſh were the Maſters here, and that if the Council were to ſend for him he undoubtedly ſhould think himſelf obliged to go. That the ſaid Sir Elijah Impey then deſired this Deponent to aſk the ſaid Radachurn, If what he had then related was true, and whether he would ſwear to it? to which the ſaid Radachurn replied calmly, and without Heſitation, That it was true, and that he would ſwear to it; but deſired that he might go Home, and write it out at his own Houſe, and he would return directly, and ſwear, as he wiſhed rather to ſwear to it when wrote in Perſian than Engliſh; and alledged, that he had no Moonſhee then and there with him: But the ſaid Sir Elijah Impey then ſaying, that it might be wrote by a Moonſhee then preſent, ſent Mr. Alexander Elliott, who ſoon afterwards came; and what the ſaid Radachurn had before ſaid, and did then repeat, he the ſaid Alexander Elliott cauſed to be wrote out by a Moonſhee in the Perſian Language, and the ſaid Radachurn was at that Time then and there preſent, and did ſee the ſaid Writing, and hear the Contents of it read before he ſwore to it. And this Deponent ſays, That what is above recited is true to the beſt of this Deponent's Recollection, and is the greateſt Part, if not the Whole, of what paſſed between the ſaid Sir Elijah Impey and the ſaid Radachurn, at the Houſe of the ſaid Sir Elijah Impey, at that Time while this Deponent was then and there preſent; and that during ſuch Time the ſaid Sir Elijah Impey did not put himſelf into a Paſſion, or ſeem angry at the ſaid Radachurn, or endeavour by Perſuaſion or by Threats, to induce him to ſwear the ſaid Affidavit; but this Deponent verily believes the ſaid Radachurn did ſwear it of his own free Will and Conſent.

Sworn this 20th Day
January 1776, before me,
E. Impey.

Wm. Jackſon.

Rex v. Budder ul Dien.

All the Judges have conferred together; and have deſired me to deliver the unanimous Opinion of the Court, in which there is not the leaſt Diſſention on any one Article or Expreſſion.

This is the Second Habeas Corpus which have been iſſued for the ſame Cauſe. On the Firſt, the Two Judges before whom it was returned, delivered the Priſoner to Bail; intimating at the ſame Time their Opinion, that the Kutkinnadar ought to be called upon before Reſort was had to the Priſoner: It was not made an Order, becauſe the Preſident of the Committee of Revenue promiſed that Comaul O'Dien ſhould not be moleſted till the Kutkinnadar had been called upon without Effect. The Bail was ordered to be taken in the uſual Form; the Preſident of the Committee dictated it. The uſual Condition is, that the Bail ſhould be anſwerable for the Appearance of the Priſoner whenever he ſhall be called for; the Act of the Judges would have been therefore nugatory, if the Preſident of the Committee had not made that Undertaking, for Comaul O'Dien might have been called for the next Day. The Judges did not make it an Order, becauſe they relied on the Honour and Candour of the Committee.

Notwithſtanding this, though no new Matter aroſe, Comaul O'Dien was again arreſted and impriſoned; in conſequence of which this Habeas Corpus iſſued. My Brother Chambers and I, before whom it was returned, and who have already had Two Sittings on the Subject, were of Opinion, the Return was informal, and therefore did not order it to be filed, but gave Time to amend; and at the ſame Time acquainted the Attorney for the Company, that the Return ought to be complete in itſelf, and not refer to other Matters not contained in the Return, or annexed thereto.

Now this Return is made, which is not complete in itſelf, but refers to a Return made to a former Habeas Corpus; we are all of Opinion, that it is therefore inſufficient.

But though ſo many inſufficient Returns have been made in this Caſe, which we rather impute to Want of Accuracy and legal Knowledge, than to any Inclination to Oppreſſion, and though there has been ſo much Delay, Comaul O'Dien having been impriſoned ever ſince the 24th July laſt, with the ſmall Interval of a few Days between his being diſcharged on Bail, and being recommitted, we ſhould have been averſe to have delivered the Priſoner merely for Want of Form in the Return.

We have therefore taken great Pains to inform ourſelves of the true Merits of the Caſe, by collecting the Opinion of Royroyan, the Canongoes, and the Sheriſta of the Khalſa, and all the Gentlemen Members of the Board of Commerce, who are at preſent reſident in Calcutta; they are the Senior Servants of the Eaſt India Company, after the Governor General and Council, and all or moſt of them have been employed in the Collection of the Revenues. The Royroyan, the Canongoes, the Sheriſta, and the Gentlemen of the Board of Commerce, agree in the Anſwer to the Queſtions that have been put to them, and all their Anſwers are greatly in Favor of the Priſoner.

And as the Attorney for the Company now acquaints the Court, that he has received Orders not to defend the Return by Counſel, we take it for granted, that the Servants of the Company think they have no Merits, and have therefore deſerted this Caſe.

There is a Sum of 9,033 Rupees, Seven Annas, on account of Teeka Calaries, which Comaul O'Dien admits himſelf liable to pay the Company; this is independant of the Principal Demand, and which gave riſe to theſe Proceedings. With regard to that, Comaul O'Dien ſwears in the Affidavit which has been read, that he delivered a Petition to Mr. Cottrell, the Preſident of Committee, as long ago as   deſiring the Committee to receive the Money; to which he has had no Anſwer, and ſays, that he is now ready and willing to pay it.

Upon what Principle of Juſtice the Committee have declined to receive it, and perſiſt in blending both Demands together, we do not know: Reaſons do indeed ſuggeſt themſelves, which we do not think fit to mention.

The Court has great Reaſon to complain of the Behaviour of the Committee, in impriſoning Comaul O'Dien, after his being delivered to Bail, and the Undertaking of their Preſident; and we think it proper now to acquaint the Gentlemen of the Committee, that they will be guilty of a Contempt of the Court, puniſhable by Fine and Impriſonment, if the Priſoner is again arreſted by them, or by their Order, directly or indirectly, on account of the ſame Cauſe, till ſuch Perſon or Perſons which the Laws and Cuſtoms of the Revenue require, ſhall be called upon before the Priſoner ſhall have been duly proſecuted without Effect.

We have acted and ſhall act in this Caſe with great Moderation, but we muſt and will ſupport the Authority of the Court with Firmneſs.

To avoid any Poſſibility of what is now ſaid being miſconſtrued, we declare, that we give no Opinion whatſoever concerning the Authority of the Committee of Revenue.

To prevent our Opinion from being miſrepreſented, we will order Copies of it, and of the Queſtions propoſed to, and the Anſwers given by, the Officers of the Khalſa, and of the Gentlemen of the Board of Commerce, and alſo of the Affidavit of Comaul O'Dien, to be ſent to the Governor General and Council; and as they have made Repreſentations to England in this Buſineſs, we ſhall deſire that the whole be entered in their Conſultations.

We are all of Opinion, that Comaul O'Dien ſhould be diſcharged out of Cuſtody; let him therefore be diſcharged.

On Payment of Rs 9,033. 7. the Priſoner was diſcharged.

Supreme Court of Judicature at Fort William, in Bengal, 5th October 1775. (Nº 10.)

PRESENT,

The Honourable Sir Elijah Impey, Chief Juſtice: And
The Honourable Mr. Juſtice Chambers.

Rex *vs.* Budder-ul-Deen, Jemmadar.

Raja Raje Bullub, the Roya Royan, in conſequence of the Requeſt of the Twenty-ninth Ultimo, attending, the under written Queſtions being put to him, gives the following Anſwers:

Queſtions put to Raja Raje Bullub.

Queſt. 1ſt. Do you know where the Canongoes, Luchmay Narrain and Mohunder Narrain, reſide?
Anſw. At Moorſhedabad uſually, but the Deputy of One of them (Luchmy Narrain) reſides here, his Name Leery Narrain; Mohunder Narrain's Deputy, Puran Kiſhen, is alſo uſually here, and they will both be here ſoon after this Feſtival.

Queſt. 2d. Are the Deputies authorized to determine Points of Law and Uſage?
Anſw. Yes.

Queſt. 3d. Can they do ſo when their Principals are in Calcutta, and ready to attend the Court that wants their Aſſiſtance?
Anſw. When their Principals are in Calcutta, the Deputies ſtill gave their Anſwers, unleſs the Attendance of the Principals be particularly required.

Queſt. 4th. Is it Part of your Office alſo, to anſwer Queſtions of Law and Uſage?
Anſw. It is not Part of my Office to anſwer to ſuch Queſtions, but when the Gentlemen of the Committee wiſh to have my Opinion, they put their Opinions in Writing, and I always give them my Opinion.

Queſt. 5th. Have you been uſually conſulted?
Anſw. The Gentlemen of the Zilla Committee are well acquainted with the Cuſtoms and Laws of the Country, but when they deſire my Opinion, or that of my Duty, or any other Officer, it is given to them.

Queſt. 6th. If I give you ſome Queſtions in Writing, will you give me your Opinion in Anſwer to them, and procure the Opinions of the Canongoes in Writing?
Anſw. I will, for that has been the uſual Way; when any Queſtions were put to me by the Committee, the Queſtions were put in Writing, to which I wrote my Anſwers, and alſo collected the Anſwers of the Canongoes, and of the other Officers of the Khalſa.

Queſt. 7. Is it now the Practice to take the Opinions of the other Officers of the Khalſa, as well as yours and the Canongoes?
Anſw. To a private Queſtion I may give my Opinion, but to a Queſtion put by the Council, not only my Anſwer is given but that of the other Officers. It is not uſual for the Zilla Committee to put any Queſtion to me unleſs on ſome very particular Occaſion; the Gentlemen of that

that Committee, if they have any Queſtions to aſk, put it to Ramchunder Sing, who is looked on as my Deputy, and to the Mohores and Canongoes there.——In the ſame Manner as Seery Narrain and Puran Kiſhan are Deputies of the Canongoes at the Khalſa, there are Two other Deputies of the ſame Chief Canongoes for the Buſineſs of the Zilla Committee.

Queſt. 8th. Who are theſe Two Deputies in the Zilla Committee?
Anſw. I know their Perſons, but not their Names; they are Mohorees of the Canongoes; I cannot ſay, whether they are Men of Knowledge or no; they are or not Men of Conſequence; they are put in by the Canongoes; if they are not qualified for their Office, it is their Fault.

Queſt 9th. Are thoſe Mohoree Canongoes appointed by Seery Narrain and Puran Kiſhen?
Anſw. They are appointed on their Recommendation, and Examination of their Abilities, by the Chief Canongoes at Moorſhedabad. They are really appointed by Seery Narrain and Puran Kiſhen, who, in the Sunnuds write the Names of the Two principal Canongoes.

The Queſtions put to the Roy Royan for his Anſwers, and thoſe of his Deputy Canongoes, Seery Narrain and Puran Kiſhen, and the Keriſta of the Khalſa; ſigned by Sir Elijah Impey and Mr. Juſtice Chambers.

Firſt, In Caſes of Diſputes concerning the Laws and Uſages of the Country relating to the Collections, ſhould the Collectors by Law of the Country determine of themſelves, or whoſe Advice ſhould they take?

Second, If a Farmer lets his Farm, and makes over his whole Right therein to a Kutkinnadar who collects the Rents, pays the Dues to Government, and anſwers all the Claims of Government, the Revenues are in Arrear by the Laws and Uſage of the Country, of whom ſhould the Officers of the Collectors demand Payment of the Kutkinnadar; or the Security, or the Farmer, and in what Order?

Third, If the Perſon on whom the Demand ought firſt to be made is inſolvent, who is the Perſon next reſponſible; and ſo on?

Fourth, Are there any Inſtances of a Kutkinnadar or Security, or other Perſon ſubmitted by the Farmer in his Stead, to collect the Rents, and pay the Dues of Government, and what are the Inſtances?

Are the Arrears of Rent in thoſe Inſtances demanded from the Perſon ſo in Poſſeſſion, or the Farmer?

Fifth, What is the Rule which fixes the Reſponſibility, or directs the immediate Attention of Government to the Perſon intruſted with the Charge of the Collections?

Ordered, That the Gentlemen, Members of the Council of Commerce, who are now reſident in Calcutta, being the eldeſt Servants of the Company who can be adviſed with next to the Governor General and Council, be deſired to attend on Saturday the Fourteenth of this Inſtant.

True Extract and Copy of the Minutes entered in my Book on the Fifth Day of October 1775.

Ja. Pritchard,
Clk. of the Crown.

Nº 30.

REFERENCES TO N° 3.——N° 30.

N° 30.

Extract of the Proceedings of the Governor General and Council, the 16th May 1775.

RESOLVED, That Sir Elijah Impey's Requeſt, for being furniſhed with a Copy of the Examination of Cantoo Baboo before the Board, on the 8th Inſtant, be not complied with; and that the following Letter be wrote to him:

To Sir Elijah Impey, Chief Juſtice of the Supreme Court of Judicature at Fort William.

Sir,

We have received the Favor of your Letter of the 15th Inſtant, with the accompanying Papers: We muſt decline communicating to you a Copy of Cantoo Baboo's Examination at our Board, as ſuch Examinations are taken for our Information only.

We are concerned to hear from you, that a Report had been publicly circulated in this Town, that if the Judges could not be prevailed upon to releaſe the Mahah Rajah, he would be delivered by Force.

Conſidering the Notice taken of this Report in your Letter, and that I had influenced you to make a Requiſition to us, we are apprehenſive it may have had ſome Weight in your Mind; though we are perſuaded you could not, but believe it impoſſible, that any Member of this Government could entertain ſo criminal a Deſign as that of releaſing by Force a Priſoner committed by due Courſe of Law.

General Clavering, Colonel Monſon, and Mr. Francis, in order to clear themſelves from any poſſible Suſpicion or Imputation on this Head, have thought proper to make the Affidavits, of which we incloſe you a Copy; and the Governor General, though he has declined joining in the Affidavit, as deeming it unneceſſary, yet declares his entire Conviction and Aſſurance, that no Member of this Board ever conceived an Intention of uſing Force for the Releaſe of Mahah Rajah Nundcomar from his Impriſonment.

Additional Paragraphs to the above Letter.

After having taken this Step to prevent the Effects which otherwiſe might attend the Publication of ſuch Reports by a Perſon in your Station, ſince your Letter muſt appear in the public Records of the Council, we think ourſelves entitled to expreſs to you our Deſire, that Reports affecting the Character and perſonal Safety of the Members of this Government, may not be in future adopted by you without ſome ſpecific Evidence

You cannot but be ſenſible, that the Character of every Man in Office, even your own, is liable to ſuffer by the current Diſcourſes of the Town; and that if ſuch Reports are introduced into Letters on public Buſineſs, without any collateral Proof to ſupport them, they muſt remain upon Record, and attract a Degree of Attention which would otherwiſe never be given to them.

We do not agree with you in Opinion, that the Bounds between the Authority of the Supreme Court and the Council are of too delicate a Nature to be diſcuſſed, without there ſhould be an abſolute Neceſſity to determine them; we think that the lawful Powers of every Branch of Government ſhould be fixed and declared, and particularly that the Limits of the Juriſdiction of the Supreme Court ſhould be aſcertained, that it may be known to the People and to the Government, what Perſons are, what Perſons are not, within their Juriſdiction.

We feel the Inconveniences ariſing from the Want of ſuch a private Limitation of the Powers of your Court, and are convinced, that the Country and the Revenues cannot fail to ſuffer by the Arreſts of ſo many Natives of high Rank as have already been ſeized by Warrants from the Judges, and obliged to anſwer the civil Suits in the Supreme Court.

Fort William,
15th May 1775.

We are, &c.

I object to the above Additions to the Draft of the Letter intended to be written to the Chief Juſtice.

(Signed) Warren Haſtings.

A true Copy. J. P. Auriol, Aſſiſtt Secy.

GENERAL APPENDIX,

N° 4, &c.

GENERAL APPENDIX,

N° 4.

Extract of a Letter from the Governor General and Council of Bengal, to the Court of Directors, 2d April, 1779.

WE beg leave to refer you to the Proceedings noted in the Margin, for the Opinions which have been delivered by Sir John Day, your Advocate General, on the Suits in which the Company have been concerned in the Supreme Court of Judicature, ſince his Arrival, and particularly on that of the Proceedings of the Court of Dewannee Adaulut at Moorſhedabad, in the Cauſe inſtituted by Gowry Churn Dutt againſt Mr. Hoſea, the preſiding Member of that Court, and Rajah Dula Roy, the Dewan of the Diviſion.

Although we were ſenſible of the Weight of the Reaſonings upon which the Advocate General grounded his Advice for a Compromiſe of this Suit, we were nevertheleſs of Opinion, that the Members who compoſed the Court ought to be ſupported and indemnified againſt all Loſſes which they might ſuſtain in the Proſecution, notwithſtanding any Errors or Informalities which they may have committed, or may be adjudged to have committed, unleſs the Charge of Oppreſſion or Corruption ſhould be preferred againſt them, and that Charge proved. As this is the Firſt Inſtance in which the Members of any Dewannee Court of Juſtice have been ſued in the Supreme Court, as Individuals, for Acts done in their Judicial Characters; and as the Credit and Authority of theſe Courts might be weakened, and their Competency, by Implication, ſuppoſed to be diſavowed by the Government itſelf, had we aſſented to a Compromiſe which could only be inferred to proceed from a Conviction, that the Acts of the Dewannee Court of Moorſhedabad were illegal; we were of Opinion, that the Suit ought to take its Courſe for the Purpoſe of aſcertaining, by a legal Deciſion whether the Dewannee Courts are or are not competent in their Judicial Powers upon the Principles of their own Conſtitution. For this Purpoſe we have inſtructed the Advocate General to plead the Judgment of the Dewannee Court of Adaulut of Moorſhedabad, in a Cauſe which they were competent to try, and to decide upon, by the Powers of their Conſtitution, in Bar of the preſent Suit brought by Goury Churn Dutt.—In caſe this Plea ſhould be over-ruled, we have ordered the Suit not to be defended, but the Proceedings of the Supreme Court ſuffered to take their Courſe.

We alſo requeſt your Attention to the Opinion of the Advocate General, in a Caſe referred to us by the Provincial Council of Dacca; in which an Attempt was made to ſerve an Execution of the Supreme Court upon a Zemindar of that Province: A Copy of his Opinion we have communicated to the Provincial Council of Dacca, for their Guidance, and alſo tranſmitted it to the different Provincial Councils, with Directions to conform to it, as a general Rule of Conduct in all Caſes to which it will apply.

GENERAL APPENDIX, Nº 4.

Sir John Day's Opinion, 21ſt March 1779.

In the Cauſe, Gora Chund Dutt,
Vs.
William Hoſea and others.

Though I can clearly ſee the wiſe and uſeful Purpoſe intended to be anſwered by the Inſtitution of the Courts of Dewannee Adaulut, and as clearly, that if they have fallen ſhort of that Purpoſe, the Cauſe is to be ſought elſewhere than in the Project or Projector; yet, uninformed as I am of the Powers of thoſe Courts, of the Source whence they derive thoſe Powers, and of the Rules which may have been preſcribed to govern and regulate the Exerciſe of them, I cannot, without a Degree of Doubt and Heſitation, preſume to ſay, whether the Defendants in the Caſe before me have acted in Conformity to them, or have exceeded or abuſed them, and, of conſequence, whether it will be adviſeable for Government to defend the Conduct of their Committee of Revenue at Moorſhedabad, or leave the Parties complained of to their own Defence: In ſome Caſes that have been before me, the Style of Proceeding, the Mode of receiving Evidence, and the Principle of Adjudication, which appear to obtain in theſe Courts, ſeem, I confeſs, not a little repugnant to thoſe Ideas of diſtributive Juſtice that are familiar to the Minds of Engliſhmen; it does not follow, however, that they are not founded in Juſtice and Wiſdom; for they have Objects to operate upon, of a Texture and Temper very different from thoſe to which the Laws of England, and the Conſtitution of its Courts, have been adopted.—From local Conſiderations, it is impoſſible, I ſee, that theſe Judicatures ſhould be fettered by Forms: And, where ſubſtantial Juſtice ſhall appear to have been their Object, where fair and upright Purpoſe, with a fixed Attention to the Equity, and a feeling one to the Compaſſion, of the Caſe before them, ſhall mark their Proceedings, I think they ſhould be indulged in a reaſonable Latitude; nor ſhould a mere Defect in Form impeach their Judgements, or be a Ground of Cenſure upon the Judges.

I muſt admit, however, that the Diſcretion with which they are, ex Neceſſitate, armed, ſhould have ſome Bounds; elſe it will ſometimes happen, from Cauſes that are rooted in the human Heart, and which, in this Country, it will require the Wiſdom and Example of many Years to correct, that their Deciſions will not bear Examination; and, in the Wildneſs, the Irregularity, and Want of Syſtem in their Proceedings, it may be ſaid, that the People can find no Rule of Conduct, no Certainty of Relief, or even Security that they ſhall not meet with Puniſhment where they are Suitors for Redreſs: But all this admitted, ſuch State, with all its Miſchiefs, were ſurely preferable to that lawleſs Anarchy that muſt enſue, if the Gentlemen who compoſe theſe Judicatures, finding themſelves daily entangled in legal Subtleties, and dragged under every Diſadvantage before a ſuperior Tribunal, to anſwer for a Defect in Form, or an Error in Judgment, ſhould (rather than by the Exerciſe of ſuch dangerous and queſtionable Power, hazard their Fortunes and Repoſe) at once decline acting, and leave the public Juſtice of the interior Part of the Country, totally unprovided for.

In the preſent Caſe, the Committee of Moorſhedabad ſeem (without intending any thing oppreſſive or unjuſt) to have gone thoſe Lengths of Irregularity, for which, under all the Circumſtances of the Caſe, it will not be an eaſy Matter to frame that Defence which may promiſe Succeſs.—*A* brings Suit againſt *B* to recover a ſmall Sum, ſtated to be due upon an unadjuſted Account.—*B* affirms, that a much larger Sum is, in Fact, due from *A* to him; they each adduce their Proofs; the Cauſe is heard by different Judges, who take it up ſeriatim in its different Stages, and Judgment goes for Defendant; the Operation and Effect of which are not merely, that he ſhall be diſcharged from Plaintiff's Demand, but that Plaintiff ſhall pay him a much larger Sum, in Satisfaction of a Claim, which formed no Part of the original Caſe, and to meet which, Plaintiff therefore probably came before them totally unprepared.

Thus far the Irregularity of their Proceeding upon the Hearing; which, upon the Ground of common Senſe and Expediency, might, perhaps, admit of a Defence, had it not been aggravated by the ſingular and multiform Means of ſatisfying the Judgement, to which they have reſorted.

Execution againſt Body and Goods;
Attachment of a Sum of Money in the Hands of a Third Perſon;
Examination of Books;
An Enquiry into outſtanding Debts; and, in ſhort, an Aſſumption of every Power incident to a Commiſſion of Bankruptcy, without any One of its Benefits to the Party, upon whom they are exerciſed, to counterbalance them.

Upon this View of the Matter, if it can be compromiſed, I would earneſtly recommend an immediate Effort for that Purpoſe. It were Wiſdom, upon many Accounts (in the preſent State of Things) to prevent ſuch Queſtions coming forward; the Court cannot (I ſhould think) wiſh to entertain them; but coming before them, they will all, I foreſee, be divided; but in one Way. Such being the Aſpect of Things, I cannot, on the One Hand, adviſe the Hon^{ble} Board to abandon the Defendants, and leave them to the Juſtification and Conſequences of their own Conduct; becauſe, I think it were a cruel Hardſhip upon the Company's Servants (who having acted, as they may have naturally conceived, in the Diſcharge of their Duty, and who, with perhaps the moſt humane, the moſt honourable and upright Intentions, have only gone on in the Track they have ſeen their Predeceſſors tread in) to be thereby ſubjected to ſuch Damages as may ſhake, perhaps overſet their Fortunes: And on the other, I cannot, judging of the future from the paſt, ſuffer the Company to be expoſed to a Defeat upon every Queſtion.—It is a Maxim, and a wiſe One, with the Law Servants of the Crown at Home, "That Government ſhould never be foiled in a Litigation;" or in other Words, that it ſhould never embark in any, where the Merits were not ſo evidently with it as to give a Certainty of Succeſs.

(Signed) John Day,
March 21ſt, 1779. Advocate General.

Ordered, That Meſs^{rs} Baber and Foley be directed to attend at this Trial.

The Board, ſenſible of the Weight of the Reaſonings upon which the Advocate General grounds his Advice for a Compromiſe of this Suit, are, nevertheleſs of Opinion, that the Members who compoſe the Court, ought to be ſupported and indemnified againſt all Loſſes which they might ſuſtain in the Proſecution, notwithſtanding any Errors or Informalities which they may have committed, or may be adjudged to have committed, unleſs the Charge of Oppreſſion or Corruption ſhould be preferred againſt them, and that Charge proved; that, as this is the Firſt Inſtance in which the Members of any Dewannee Court of Juſtice have been ſued in the Supreme Court as Individuals, for Acts done in their judicial Characters; and as the Credit and Authority of theſe Courts might be weakened, and their Competency, by Implication, ſuppoſed to be diſavowed by the Government itſelf, ſhould the Board aſſent to a Compromiſe—which could only be inferred to proceed from a Conviction that the Acts of the Dewannee Court of Moorſhedabad were illegal—the Board are of Opinion, that the Suit ought to take its Courſe, for the Purpoſe of aſcertaining, by a legal Deciſion, whether the Dewannee Courts are or are not competent, in their judicial Powers, upon the Principles of their own Conſtitution; and that for this Purpoſe, the Advocate General, on the Company's ſtanding Counſel, acting under him, be inſtructed to plead the Judgment of the Dewannee Court of Adaulut of Moorſhedabad, in a Cauſe which they were competent to try, and to decide upon, by the Powers of their Conſtitution, in bar of the preſent Suit, brought by Gora Chund Dutt, againſt Mr. Hoſea and Rajah Dula Roy; and that if this Plea is over-ruled, the Company's Counſel be ordered not to defend the Suit, but to ſuffer the Proceedings of the Supreme Court to take their Courſe; and that the Advocate General be deſired to give particular Inſtructions for the proper Management and Support of this Plea, and that he be furniſhed with the original Proceedings of the Dewannee Adaulut, at Moorſhedabad.

The Advocate General's Report.

With every Diſpoſition to conform to the Deſire of the Board, and with a juſt Diffidence in my own Judgment, when it ſhall happen to be oppoſed to theirs, I ſhall be indulged, I hope, while I ſubmit to them Reaſons why, in the preſent Caſe, the Line of Proceeding they recommend, cannot be purſued.

In the Caſe now under Conſideration, the general Iſſue having been pleaded, with the uſual Notice of Juſtification, antecedent to its coming in Reference before me, no Plea in Bar or Abatement could have been then received, being, of conſequence obliged to go upon the Merits, and they being evidently againſt us; I therefore then adviſed, and ſtill adviſe (if it be ſtill practicable) a Compromiſe.

Nor can a Compromiſe in this Cauſe imply a Doubt of the Competency of the Courts of Dewannee Adaulut, or with thoſe who are poſſeſſed of the Caſe upon its true Ground, ſhake their Credit or Authority for a Moment.

The Truth is, that their Competency has never been denied, neither has the Exerciſe of their Powers (ſo long as they have acted up to the End and Principle of their Inſtitution) been once queſtioned.

It is the Abuſe, and not the Exerciſe of thoſe Powers, which, to Appearance, has brought their Acts under the Reviſion and Controul of a ſuperior Court.

The Acts that have been queſtioned, have not, however, been in Fact the Acts of a Court of Juſtice. Had the Abuſes complained of been judicial Acts, the Plea upon which it is propoſed to try their Legality were proper; for it is known Law, that ſuch Acts are not examinable or puniſhable by other than the ſupreme Authority of the State, neither will an Action lie againſt a Judge for a wrongful Commitment, any more than for an erroneous Judgment; this muſt, however, be underſtood of Courts of Record only. Whether it will be admitted, that the Courts in Queſtion are of that Deſcription, I know not; in my Judgment they unqueſtionably are.

When a proper Occaſion ſhall offer, of bringing the Queſtion (if any Queſtion ſhall be made, for in Truth there is none at preſent) of the Competency of the Provincial Judicature, and the Immunity of their Judges from Examination or Puniſhment, for Acts done in their judicial Capacity, fairly before the Supreme Judicature, upon a ſpecial Plea ſhaped to the Occaſion, and upon a Ground not embarraſſed with any of thoſe adverſe and untoward Circumſtances that clog the preſent Caſe, I cannot have a Doubt that the Judgment of the Court will declare them to be legal, and eſtabliſh their Authority.

It were well worth the Conſideration of the Board, that the Acts which form the Foundation of the Plaint in the Moorſhedabad Caſe, were done, not in the Adaulut (for that had long diſcontinued its Functions, and ſhut its Doors againſt the People) but in the Exerciſe of the executive Power of Government: A Circumſtance which, if eſtabliſhed in Proof, conſtitutes their Illegality, and muſt, in my Opinion, condemn them.

I have ſtated the Acts alluded to, upon a former Report, and as they ſavoured of Oppreſſion, it is not to be wondered at that the Parties who felt themſelves aggrieved by them, have been adviſed to take Advantage of their Irregularity.

It is well known, that Irregularities far ſhort of thoſe, though ſanctioned by conſtant Practice and univerſal Acquieſcence for a long Series of Years, have, in preſent Times, ſubjected Men ſtanding in Situations of the moſt ancient, beſt eſtabliſhed, and moſt accurately defined, as well as of the higheſt Authority at Home, to Actions in Weſtminſter Hall, in which exemplary Damages have been given.

Among the Grounds of the ſeveral Actions recently brought by the Witneſſes in the late Patna Cauſe, I fear, that there are Circumſtances to the full as adverſe to the Plea upon which the Board ſeem to wiſh that the Authority of the Provincial Courts ſhould be eſtabliſhed. In thoſe Actions, however, ſhould the Board ſtill adhere to their Reſolution of trying the Queſtion upon that Ground, we are yet in Time for it.

The Supreme Judicature then, moſt probably, never having had the moſt diſtant Deſign to draw into Queſtion the juſt Authority of thoſe Courts, but deſirous that they ſhould anſwer the beneficial Purpoſe for which they were inſtituted, and with an Eye to that, having in Truth never intended more than to reſtrain them to a fair Feeling, and conſcientious, rather than a formal, technical, and ſcientific Exerciſe of it: Were a Defence of thoſe Powers to precede an Attack upon them (and in neither of the Caſes before me, the Plea propoſed would in my Judgment wear that Face) I ſubmit to the Wiſdom of the Board, whether it might not ſpeak a Suſpicion on the Part of Government, that there was ſome latent Defect in the Conſtitution of thoſe Courts, over which it was neceſſary to watch, in order to repel any Attack upon it.

But after all, ſhould there really exiſt an Intention of ſtriking their Competency, and annihilating their Authority, or reſtraining it within ſuch Bounds as may render it nugatory and of no Effect, Occaſions will not be long wanting of trying that Competency, upon an Act that is ſtrictly and incontrovertibly judicial.

In the Interim, if, notwithſtanding what has been here urged, the Board will prematurely hazard the Queſtion upon a Ground, which, for the Reaſon I have ſtated, appears to me not tenable, the Plea they point at ſhall be pleaded in the Actions recently brought againſt the Members of the Patna Council, and let it take its Fate. This Conſequence indeed will reſult even from its being over-ruled, ſhould it in that Event, and in that Stage, go Home in appeal, the Odium (if any there is) as well as the Irregularity of the interior of the Caſe (and which, as it may be dreſſed up in Evidence upon Paper, it were perhaps better ſhould not meet the public Eye) will not be brought forward; and the Defendants may take the Chance of Time and Events, for getting at thoſe further Lights that may amount to a full Juſtification of their Conduct.

The Plea then being late in One Cauſe, and for the Reaſons I have mentioned, not maintainable, I fear, in either; ſhould both, therefore, come to an immediate Hearing upon the Merits, it were ſuperfluous, I ſhould imagine, to appriſe the Board, that upon their preſent Aſpect, there is next to a Certainty of Judgments going againſt the Defendants.

In that Event, it will reſt with the Board, upon a View of the Caſe that ſhall be made out in Evidence againſt them, whether they ſhall indemnify the Members of their Provincial Councils againſt the Damages for which Judgment ſhall be given, or not?

I have dwelt thus long upon this Matter, on account of the Importance of thoſe Courts in the preſent State of Things, to the very Exiſtence of Society in the Company's Provinces; and becauſe the Reſpect and Authority that belong to them, ſhould not therefore be impaired, or hazarded by an impotent, a premature, and unſucceſsful Effort, to uphold them.

(Signed) John Day.
Calcutta, May 31ſt 1779.

As it appears that the Subject of this Suit has been at various Times taken up in the Khalſa:

Ordered, That the Superintendant be directed to lay before the Board a ſummary State of the Caſe.

Ordered, That the Suit be defended by the Company's Attorney, and that the Secretary do ſummon Meſſrs. Baber and Foley to attend at the Trial.

To North Naylor, Eſquire.

Sir,

My Report, in this Cauſe, diſcharges me from all future Reſponſibility in it; I wiſh it could as effectually relieve you from the ſuperfluous and unavailing Labour I ſee before you. Since it is reſolved to let the Cauſe go to Trial upon the Merits, you muſt e'en conform.

Were I aſcertained of the Point of View in which the Supreme Court of Judicature conſider the Provincial Adaulut, I could at once anſwer your Queſtion.

If they admit them to be Courts of Records, their Proceedings being their Records, if pleaded, and they have a Seal, muſt be authenticated under that Seal; but if given in Evidence, an atteſted Copy will do.

Let me add, That the Court recognizing them as Judicatures, muſt take them as ſuch, according to the Plan of their Inſtitution as ſent Home and approved of; and I obſerve, that their Proceedings are there called Records.

For this Reaſon they will not heſitate, I ſhould think, to admit atteſted Copies to be Evidence, Exabundanti Cautela; however, I would adviſe (if it ſhall occaſion no Interruption or Detriment to the Company's Affairs) that you have the original Proceedings brought down. But if it ſhall, and atteſted Copies are offered, and rejected, it ſtrengthens your Ground of Appeal, if an Appeal ſhall be thought adviſeable.

I am,
Your's, &c.
June 2d 1779. (Signed) Jnº Day.

Ordered, That the Secretary do make Application to the Provincial Council of Moorſhedabad, for the original Proceedings of their Board, and Adaulut, in the Cauſe of Gorachund Dutt againſt Mr. Hoſea and Dula Roy.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 1ſt June 1779.

The Secretary lays before the Board the following Letter from the Company's Attorney, with the Report of the Advocate General, in the Cauſe of Gorachund Dutt againſt Mr. Hoſea, &c.

To Mr. George Hodgſon, Secretary, &c.

Sir,

I have the Pleaſure to incloſe you the Report which the Advocate General has made in the Cauſe of Gorachund Dutt Vˢ Hoſea and others, in conſequence of the Letter to him from the Honourable Board on the Subject of this Suit. If it ſtill ſhould be the Opinion of the Honourable Board, that the Defence of this Action ſhould be proſecuted, I muſt requeſt their Orders for the Attendance of Meſſieurs Baber and Foley, on the 19th Inſtant; for which Day I have received Notice of Trial. I have Reaſon to imagine, that this Action has been inſtituted by Gorachund Dutt, not ſo much with a View of recovering pecuniary Damages, as from a Hope that eſtabliſhing Illegality of the Procedure, he may procure Releaſe from his Confinement; and, I ſhall imagine, that if his Releaſe is directed by the Board, it will put an End to the Action.

I am,

Calcutta,
1ſt June 1779.

(Signed) North Naylor,
Attorney to the Honᵇˡᵉ Comʸ.

Upon the Inſtructions from the Board, to plead in Bar of the Action commenced by Gorachund Dutt Vˢ William Hoſea and another,

" That the Acts complained of were the Acts of a Court of Judicature in the Exerciſe of thoſe " Judicial Powers to which it was competent under its Conſtitution, and therefore not puniſhable " or actionable in another Court."

Extract of a Conſultation held at Fort William the 21ſt September 1779.

Report of the Company's Attorney in the Cauſe of Gorachund Dutt againſt Mr. Hoſea and Rajah Dula Roy.

Gorachund Dutt
Vˢ.
William Hoſea and Rajah Dula Roy.

Report of the Company's Attorney.

This Action was brought againſt Mr. Hoſea, one of the Members of the Provincial Council at Moorſhedabad, and Rajah Dula Roy, the Dewan, in conſequence of an Order iſſued by the Council to the Peſhcar of the Adaulut, directing him to enforce a Decree, which had lain for ſome Time dormant; the Circumſtances of which have been fully reported to the Board by the Superintendant of the Khalſa in his Report, of Date the 8th Day of June 1779.

The Plaint contained Four ſeveral Counts; the Two Firſt for aſſaulting and impriſoning the Plaintiff, the other for entering the Plaintiff's Houſe, diſturbing him in the quiet Occupation and Enjoyment thereof, and taking and carrying away Goods and Chattels of the Plaintiff to the Amount of Sicca Rupees, Thirty-two thouſand Eight hundred and Twenty-two.—To this Action, the General Iſſue, Not Guilty, was pleaded, with Notice of Special Matter to be given in Evidence, (Vide Exhibit A). The Notice ſtated the Eſtabliſhment of the Provincial Council at Moorſhedabad by the late Preſident and Council, with Power and Authority to ſit and act as a Court of Juſtice; and ſetting forth the Powers incident to a Court of Juſtice—That all Actions and Suits ariſing within the Juriſdiction of ſuch Court, were decided agreeable to the Muſſulman or Hindoos, as the Parties in ſuch Suits were Muſſulmans and Hindoos. It then ſtates the Powers veſted by the Act, in the Governor General and Council, and the Commiſſion of the Adminiſtration of Juſtice within the Diſtricts of Moorſhedabad to ſuch Provincial Court or Council, as before mentioned; and then ſtates the repreſentive Members who compoſe the Council, and their having continued in the Exerciſe of the Powers of trying and determining Suits as beforementioned.—The Notice then ſtates the Inſtitution of the Suit in the Dewannee Adaulut, the Proceedings which were had, and the Decree or Judgment which was given againſt the Plaintiff Gorachund Dutt, and that afterwards at the Inſtance of Mirza Jelleel, the Party in whoſe Favour the Decree was paſſed, an Execution was awarded for ſatisfying the Amount adjudged to him, by ſeizing the Perſon and Effects of Gorachund, and detaining him in Priſon till the Judgment ſhould be ſatisfied, and then concludes, by alledging the reſpective Capacities in which the Defendants acted in the Matter complained of, and the Legality of their having ſo done. Several Witneſſes were called on the Part of the Plaintiff, whoſe Teſtimony went no further than to prove an Impriſonment, and totally failed in proving the Seizure of the Goods, and which, though it would have been admitted to a particular Amount on the opening

ing of the Cauſe, was refuſed by the Plaintiff.—The only Acts therefore proved againſt the Defendants being the Impriſonment, that remained alone to be juſtified.

Several Objections were taken by the Advocates for the Plaintiffs, to the Notice of Juſtification; the Court however over-ruled them, and permitted the Defendants to go into their Evidence in Bar to the Action. The Objections taken were in no wiſe material, and rather critical than ſubſtantial:

1ſt. That the Notice did not ſtate the Authority under which the late Preſident and Council eſtabliſhed Courts.

2d. That the Juriſdiction of the Court was ſtated to be general, and therefore that ſuch Court would in ſome Caſes, if ſuffered, interfere with the Juriſdiction given to the Supreme Court.

3d. To the Regularity of the Proceedings, and to the Judgment which decreed a Sum in Favour of the Defendants in the Suit in the Adaulut, though there was no croſs Suit, or any Proceeding analogous to it, the Chief Juſtice ſaid, he could not ſee ſufficient Reaſon for precluding the Defendants from entering in their Juſtification.

“ *That in Caſe of Suits inſtituted before the Provincial Councils, except in Caſes of manifeſt Corruption,*
“ *the Court will not enter into the Regularity of the Proceedings.*”

It being obſerved by the Plaintiff's Advocate, that this was a Caſe where manifeſt Oppreſſion and Irregularity had been committed; the Chief Juſtice added, “ *I do not think it the Province of this* “ *Court, to enquire into the Irregularity of the Court's Proceedings.*” The Defendants thereupon entered on their Defence, and gave in Evidence the Decree of the Adaulut, which was proved by one of the native Officers. The Perwannah, or Order to the Peſhcar, under the Signature of Mr. Baber the Chief, was exhibited and proved by Mr. Baber; who ſpoke as to the Time and Occaſion of it being iſſued, and that Orders of this Kind paſſed generally through Dula Roy the Dewan, to the Peſhcar of the Adaulut, for the Purpoſe of being carried into Execution;—but that in this Caſe it paſſed immediately to the Peſhcar; that it had iſſued from the Council ſitting in their judicial Capacity.

The Eſtabliſhment of the Adaulut at Moorſhedabad, and the Appointment of Mr. Hoſea, as well as of the other Members of the Provincial Council, and that of Dula Roy the Dewan, as ſtated in the Notice, being admitted by the Plaintiff's Advocate; and the Court appearing fully ſatisfied with the Sufficiency of the Evidence on Part of Defendants, it was cloſed.

The Court took no Time to conſider on this Cauſe, but immediately gave Judgment for the Defendants, with Coſts.

For the further Information of the Honourable Board, I will beg Leave to refer them to the Copy of the Evidence in the Cauſe, accompanying my Report.

(Signed) North Naylor,
Attorney to the Honᵇˡᵉ Company.

Extract of a Letter from the Governor General and Council of Bengal, to the Court of Directors, 10th January 1780.

We took Occaſion to point out to your Notice, in the 13th and 14th Paragraphs of our Letter of the 2d of April 1779, per Naſſau; the Suit which had been inſtituted in the Supreme Court by Gora Chund Dutt againſt Mr. Hoſea, the then preſiding Member in the Dewannee Court of Adaulut at Moorſhedabad, and Rajah Dula Roy, the Dewan of that Diviſion.

Notwithſtanding the Compromiſe recommended by the Advocate General, in his Report upon this Suit, already referred to in our Proceedings by a former Conveyance, and the further one which we received from him, adhering to his former Opinion, we determined to abide by our Reſolution of bringing the Queſtion to a Deciſion; the Cauſe was accordingly tried, and we have the Pleaſure to acquaint you, that Judgment was given in Favour of the Defendants, with Coſts of Suit.

GENERAL APPENDIX, Nᵒ 5.

Fort William, the 1ſt October 1776.

Rev. Depᵗ.

At a Conſultation;

PRESENT,

The Honourable Warren Haſtings, Gov. Gen. Preſident.
Richard Barwell, } Eſquires.
Philip Francis, }

Lieut. General Clavering indiſpoſed.

To the Honourable Warren Haſtings, Eſquire, Governor General, and Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,

WE beg leave to ſubmit to your Conſideration, Two Petitions concerning the Powers of the Honourable Supreme Court of Judicature, of a different Nature from any of the Repreſentations hitherto referred to you, on Behalf of the Inhabitants of theſe Diſtricts.—They both relate to Articles of Criminal Juriſdiction; the Charge laid againſt Mahomed Hady, Zemindar of Scrayl, Shabpurſaudud, a Zemindar of Bummoy, and Bulram, a Merchant, being for Aſſault and Impriſonment; and againſt Ajooderam and Subharam, for wilful Murder. None of the Parties accuſed, appear to have been at any Time employed in the Service of Britiſh Subjects; and Proceſſes had already been entered before the Provincial Officer of Juſtice.

We dread the Conſequences with which the Government's Revenue will be affected, if the Authority of its Courts is ſet at nought, and the Perſons of Zemindars and Talookdars are liable to be carried away to Calcutta, upon every Diſpute or every Fray which may ariſe in a Diſtrict, where the Proprietorſhip of the Land is ſo extremely diffuſive as in Dacca, and where the Spirit of the Inhabitants is ſo remarkably turbulent and litigious.—As Britiſh-born Subjects, we revere and glory in the ſublime Syſtem of Engliſh Penal Law; but we ſhould be wanting in the Duty we owe to you, Gentlemen, who are inveſted with the Government of this Territory, and to the Inhabitants of the Province we have the Honour to ſuperintend, if we were to refrain from Remonſtrance when we ſee Men, neither connected with Europeans, nor converſant in their Cuſtoms, forced away to be tried as Criminals upon the ſolemn Charge of Life and Death, at the Diſtance of Three hundred Miles, from their Friends and Families, in a Language and Mode of Proceſs totally unknown to them, in the Court of a Britiſh Sovereign, who has never been formally announced to them, and by the Teſt of Laws, which have never been promulgated.—

We are, &c.

(Signed)
C. W. Boughton Rouſe.
C. Purling.
J. Hogarth.
J. Shakeſpear.
Wᵐ. Hollond.

Dacca,
the 20th June 1776.

The Arzee of Subharam and Ajooderam Ghoo.

Rhoodee Ram Shaickdar, on the Part of Joineram Goſaul and Buxſhee Chowdrie, a Partner in Pergunnah Mohpulpore Colah, has forcibly with Burgundoſſes Teraudoſſes, a Number of People, built a Fort in a public Road near a new Churr in Juppah Hahcheitpore, &c. our Conſtituent Zemindarry, and entered the above Churr, cut and carried away the Grain, &c. ſown by our Conſtituent's Ryots: On hearing which, we ſent many People into the above Churr, to reconcile Matters and prevent Diſturbances; when the Rioters came out of the Khollah, attacked our People, and killed Two of them with Arrows, and Ballaſoo ſeized 5, and took them away. I ſent the dead Corpſe to Dacca; and on the 30th of Choit 1182, our Conſtituent's Gomaſtahs laid the dead Corpſe, with a Repreſentation of the Particulars of the ſame, before the Chief of Dacca; who called Ramnarain Monchy, and took a Mochulka from him, to produce the Rioters in the Space of Ten Days.—On which, Jogeram, Gomaſtah to the Zemindar of Pergunnah Mohbulpore aforeſaid, by Colluſion and Deceit, preferred a falſe Complaint in the Engliſh Court of Juſtice at Calcutta againſt us, and brought up an European and Two Peons with a Warrant, who has ſeized and confined us—We know not how to plead in an Engliſh Court, and we never were in the Service of Engliſh: We therefore pray, that this Matter may be referred to the Phouſdarry Cutcherry, that the Officers of that Court may render Juſtice.

(Signed) Sooberam Ghoſe and Ajooderam Ghoo.

A true Tranſlate.
(Signed) Wm Cator,
Pn. Tranſlator.

A true Copy.
Ch. Burrowes,
Aſst. Secry.

(Encloſure.)

The Arzee of Ramſunker Arzamin for Pergunnah Serail.

Moohtaram, Talookdar of Sutaram, Chowdrie of Juppah Moodacany, preferred a Complaint for cauſing the Ryots to deſert, and for Robbery, in the Phouſdarry Cutcherry, againſt the Zemindar and Subarrahdars of Pergunnah Serail (for which Pergunnah I am Arzamin). In conſequence of which, the Peons of the Court were ſtationed over them; when the Zemindars, Vakeels attended, and pleaded, and the Matter was, in the Courſe of Juſtice, decided upon. But now Kiſſuram, the Partner of the above Complainants, has again preferred a Petition in Calcutta upon the ſame Matter, brought up Four Peons with a Warrant for Mahmud Haddy, Zemindar of the aforeſaid Pergunnah, and apprehended him. The Government's Revenue will, if the Zemindar goes away, ſuffer, and I ſhall be unable to tranſact the Buſineſs of the Revenue; the Zemindar has never been in Calcutta, or pleaded there: I therefore pray, that a reſponſible Vakeel may go on the Part of the Zemindar, and anſwer to the Complaints, and that the Zemindar may remain here, and pay the Government's Revenue.—Order what may be proper.

(Signed) Ramſunker,
Arzamin for the above Pergunnah.

(A true Tranſlate.)
(Signed) Wm Cator,
Pn. Tranſlator.

(A true Copy.)
C. Burrowes,
Aſſiſt. Secy.

GENERAL APPENDIX, Nº 6.

Fort William, the 2d September 1777.

At a Conſultation;

Revenue Department;

PRESENT,

The Honourable Warren Haſtings, Eſquire, Governor General, Preſident.
Richard Barwell, } Eſquires.
Philip Francis, }

THE Secretary lays before the Board the following Letter to him from the Govenor General, and Papers accompanying it.

Sir,

I ſend, accompanying a Letter and its Incloſures from Dacca, regarding a Writ of Habeas Corpus. As this is the laſt Day mentioned in the Order, I deſire you will conſult with the Company's Counſel and Attorney, and let the neceſſary Steps be immediately taken—You will report what you have done to the other Members of the Board, and inform them the Opinion of the Council in this Caſe, and of the Neceſſity which obliges me to proceed ſo far without previouſly conſulting them.

I am, Sir, &c.

20th Auguſt 1777. (Signed) Warren Haſtings.

To Richard Sumner, Eſquire.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council of Revenue at Fort William.

Honourable Sir, and Gentlemen,

We beg Leave to tranſmit for your Peruſal, an original Order, ſerved upon us by a Servant of Mr. Peat, the Attorney, under the Signature of Mr. Juſtice Hyde, directing the Clerk of the Crown to iſſue a Writ of Habeas Corpus for the Removal of Seroop Chund, who was lately confined by the Authority of our Board, to enforce Payment of a Balance of Sicca Rupees 10,000. 6 Pica. due from him as Malzamin of the Pergunnah of Decan Savagepore.—Although the Engagements were executed with the Committee of Circuit, by his Father Netanund Doſs, yet Seroop Chund ſucceeding to the Eſtate, has, for theſe Three Years paſt, acted in every Reſpect as Malzamin, received the Collections from the Zemindars, paid the Revenue to Government, and very lately taken out a Writ from the Supreme Court of Judicature, againſt a Perſon for the Non-performance of Engagements as Arzamin, executed to him, Seroop Chund, as Malzamin, and entered into ſince the Death of his ſaid Father: We mention theſe Circumſtances, to obviate any Pleas he may ground upon the Engagements with Government having been executed by his Father. Further, it may not be improper here to add, that in like Manner Seroop Chund ſucceeded to the Malzaminy of Pelkarrah, claimed all the Rights thereof, ſued the late Zemindar before our Board, and actually obtained a Decree againſt the ſaid Zemindar, as having been the Malzamin for his Pergunnah.

Upon the Arrival of our Chief, and the aſſembling of a full Board, we thought it expedient, for the Execution of your Commands of the 22d ultimo, reſpecting the Balances, to iſſue a Publication, and give a general Order to the Dewan, to claim the Balance due from each Malzamin and Zemindar; and in Default of Payment, to put them into Confinement. Seroop Chund, with others, was confined. A few Days afterwards, Seroop Chund, repreſenting to our Board, that he and the Zemindar had urged Pleas to be excuſed from the Balance claimed of him, that upon thoſe Pleas the Claim had been ſuſpended, and therefore, praying to be releaſed; we directed his Releaſe from Confinement, and that a Peon only ſhould be ſtationed over him, if he would execute a written Declaration to ſatisfy ſuch Demand as might be eſtabliſhed againſt him, after a Hearing of his Pleas, when the Board ſhould go into a general Examination of all the Balances of laſt Year, conformably to the Orders above quoted. This he has hitherto poſitively refuſed; we were therefore, neceſſitated, for the Safety of the Public Revenue ſtill to continue the Reſtraint over Seroop Chund; for, as he holds One of the principal Offices under our Council (and this is the Firſt Inſtance we have experienced of Reſiſtance to the Orders of Government, and Denial of its Claims) ſhould we now releaſe him after his public Defiance of our Authority, any future Exertions of the Powers you have veſted in us, either in obtaining Payment of the former Balances, or the current Revenue of the preſent Year, will become nugatory in the Eyes of the People; and the Conſequences to the Public Intereſt are obvious.

You will be pleaſed to obſerve, by our Conſultations herewith tranſmitted, when the Writ mentioned on the Order was ſerved upon, and in what Manner. We have given your Honourable Board this early Notice, that ſuch Meaſures as you ſhall judge expedient, may be taken to ſupport the Authority of the Government; and that we might be honoured with your Inſtructions for our Guidance.

This Article relates ſolely to our Juriſdiction in Revenue Matters. We have likewiſe Claim upon Seroop Chund for the Balance of running Caſh in his Hands, as Cazanchy or Treaſurer, and not yet conveyed to our principal Treaſury, amounting to 60,000 Sicca Rupees. His Conduct having alarmed our Apprehenſions for the Safety of the Public Treaſure under his Charge, we have called upon him to pay the whole Amount, without Delay, into our general Treaſury; but the Diſcoveries brought forth by this Demand, Particulars of which you will ſee in our Conſultation, and his Refuſal, equally abſurd as obſtinate, to make good in Caſh the Balance he acknowledged, laid us, we thought, under an abſolute Neceſſity to remove him from all future Interference in the Public Money; we have therefore diſmiſſed him from his Office as unworthy the Truſt he held, and ſhall continue to exert the moſt efficacious Means in our Power, for recovering from him the Honourable Company's Property which he has thought proper to appropriate to his own Emolument.

We have the Honour to be,
Honourable Sir, &c, &c.

Dacca,
Aug. 26, 1777.

Signed { C. W. Boughton Rouſe.
J. Shakeſpeare.
Wm Hollond.

Dacca, the 26th Auguſt 1777.

(Encloſure.)

At a Provincial Council of Revenue;

PRESENT,

Chas Wm Boughton Rouſe, Eſquire, Chief;
Meſſrs. John Shakeſpear,
William Hollond.

Mr. Hogarth indiſpoſed.

The Board being met, now record the following Order ſerved upon them Yeſterday in Council:

In the Supreme Court of Judicature at Fort William in Bengal.

(Crown Side.)

Upon the Application of Mr. George Wroughton, Attorney for Seroopchund, Caſſanchy, I do order that a Writ of Habeas Corpus be prepared by, and do iſſue out of the Office of, the Clerk of the Crown, directed to Charles William Boughton Rouſe, Matthew Day, John Shakeſpear, John Hogarth, and William Hollond, Eſquires; commanding them to bring up the Body of Seroopchund, Caſſanchy, ſaid to be detained in their Cuſtody, before me, immediately at the Court Houſe at Fort William, in Bengal, together with the Day and Cauſe of the taking and detaining him the ſaid Seroopchund, Caſſanchy; to do, receive, and be ſubjected to, what ſhall be then and there conſidered of him in his Behalf, unleſs Cauſe be ſhewn to the contrary, before me, on or before the Thirtieth Day of Auguſt, One thouſand Seven hundred and Seventy-ſeven. Dated this 20th Day of Auguſt, 1777.

(Signed) J. Hyde.

The Dewan reports, that the Amount due from Seroopchund, Caſſanchy, as Malzamin of Ducken Savagepore, is 10,000. 6. He alſo reports, that Seroopchund, as Caſſanchy, has now a Balance of Running Caſh in his Hands, of Rupees, 66,745. 15. 8. 2.

GENERAL APPENDIX, Nº 6.

The Dewan further reports, that upon his communicating the Orders of the Chief to Seroopchund laſt Night, to attend the Board this Morning, he replied, "that he hoped to God the Council would confine him, as Mr. Peat had told him it would be to his Advantage," or Words to that Effect; and that he nevertheleſs directed him to attend the Council, and is now waiting.

Seroopchund being called in, is queſtioned as follows:

Queſt. An Order was ſerved upon the Chief and Council Yeſterday, from the Supreme Court of Judicature, directing your Releaſe from Confinement—Under what Confinement are you, or what do you complain of?
Anſ. I am confined in the Kellah, and diſgraced; I do not know what I am confined for.

Queſt. Was you at the Time informed, you was confined for a Balance due from you as Malzamin of Duckenſavage-pore?
Anſ. I do not owe any Balance for the Malzaminy of Duckenſavagepore.

Queſt. Have you paid all the Revenues of Duckenſavagepore for the laſt Year, 1183?
Anſ. I have paid the whole Revenue of Duckenſavagepore for the Year 1183, except only 10,000 Rupees, the Payment of which Mr. Purling ſuſpended.

Queſt. Upon what Account was this Balance ſuſpended, as you alledge?
Anſ. The Zemindars repreſented to Mr. Purling, that great Depredations had been made in their Lands by the Muggo, and that the Pergunnah was much injured. He ordered me not to demand that Amount from the Zemindars, and told the Tavildar not to demand it from me.

Queſt. How long have you paid the Revenue of Duckenſavagepore as Malzamin?
Anſ. I was not originally Malzamin, my Father was Malzamin to the Committee of Circuit.

Queſt. How long was your Father Malzamin to the Pergunnah?
Anſ. He was Malzamin for Five Years.

Queſt. Did he continue Malzamin for the whole Five Years?
Anſ. My Father was Malzamin for Three Years nearly, after that the Gomaſtahs carried on the Buſineſs.

Queſt. Under what Orders did the Gomaſtahs act in the Malzaminy of Duckenſavagepore?
Anſ. Under my Orders.

Queſt. Does the Zemindar owe you any Thing?
Anſ. The Zemindars gave me an Acknowledgment in writing for 68,000 Rupees, as the Balance of our Account at the Cloſe of 1182.

Queſt. Who ſigned the adjuſted Accounts?
Anſ. They were ſigned by Kiſenram; the Zemindars Dewan, the Perſon preſented to me by the Committee of Circuit.

Queſt. Whence does that Debt ariſe?
Anſ. I have paid the the Revenues to the Company, and advanced various Sums to the Zemindars.

Queſt. Is there in the Account any Article for Malzamin Ruſſoom?
Anſ. There is the Malzamin's Ruſſoom, according to the Rates eſtabliſhed by the Gentlemen.

Queſt. Who will get the Ruſſoom to the End of 1183?
Anſ. Whoever is Malzamin will get it—The Accounts are not yet ſettled for the Year 1183; to the End of 82 they were ſettled, and I have received the Malzaminy Ruſſoom.

Queſt. Is there any Article of Intereſt in thoſe Accounts?
Anſ. Two Rupees per Month is charged.

Queſt. Have you ever before been confined for the Revenue of Duckenſavagepore?
Anſ. Never; when the Order was for all Malzamins to be confined, I was exempted.

Queſt. Why were you not confined with the other Malzamins?
Anſ. The Perſon who conducted the Buſineſs was confined.

Queſt. Were Peons ever put upon you for the Revenue?
Anſ. A Sootabundar was once put upon me for the Revenue of Salemabad.

Queſt. Did not Mr. Purling put Peons upon you, and confine you, for the Balance of Dukenſavagepore?

Anſ. He did not confine me, he confined Bidenaut; as to me I have kept no Balance of the Revenue of Dukenſavagepore, and I have been unjuſtly confined.

Queſt. When Orders were paſſed for your Confinement, were you not appriſed that there appeared in the Dacca Conſultations no Suſpenſion for 10,000 Rupees, and that poſitive Directions were received from the Governor General and Council to enforce Payment of all Balances?

Anſ. No; I did not know that I was confined for the 10,000 Rupees until the Night.

Queſt. What Confinement do you now ſuffer?

Anſ. I was confined all Night in the Kellah.

Queſt. Have you been confined in the Kellah ever ſince the Firſt Order was given?

Anſ. For Two Days and Nights I was in the Kellah, and for the enſuing Four Days I was allowed to go to my Houſe with Peons upon me.

Queſt. Were you confined in the Place where Perſons are uſually confined for Revenue Balances?

Anſ. I don't know where People are confined for Revenue—I was confined in the Kellah.

Queſt. The Government now demands from you the Sum of 10,000. 6. on Account of the Revenue of Duckenſavagepore, for the Year 1183—Will you pay it or not?

Anſ. It is not due from me, and I will not pay it.

Queſt. Do you mean to deny that you are Malzamin to the Pergunnah of Duckenſavagepore?

Anſ. I was Malzamin for Duckenſavagepore, and have paid all that was due—I did not complain for a Remiſſion; the Zemindar complained Mr. Purling confined Bidenaut, and I gave Pauts and Chellauns for the Amount due to the laſt Cowrie, with an Exception to the 10,000 Rupees before mentioned.

Queſt. What Balance of the Company's Caſh have you in your Hands as Coſſanchy?

Anſ. Whatever the Amount is, it is ready—What Diſpute can there be about that? it is ready at your Orders.

Queſt. How much is it?

Anſ. 66,749 Rupees of different Sorts.

Queſt. Deliver in an Account, Particulars?

Anſ. I can't give an Account now; I will deliver one in the Evening, ſigned.

Queſt. You muſt pay this Balance Immediately into the Hands of the Dewan?

Anſ. I will pay the Balance of Treaſure in my Hands in ſuch Manner as may be ſatisfactory to the Dewan.

Queſt. Is then the Company's Money lodged with you not ready in Caſh?

Anſ. Yes, certainly, after deducting the Sums due from certain Perſons dependant on the Company (uſing the Word, Mootalock.)

Queſt. What do you mean by the Word "Mootalock?"

Anſ. I mean, Gentlemen of the Council who owe me Money and have not paid it, although the Time of Payment is expired.

Queſt. What Gentlemen?

Anſ. 11,000 Rupees with Mr. Shakeſpear; Principal 10,000, with 1,000 for Intereſt.

Mr. Shakeſpear's Explanation.

I am not indebted to Seroopchund upon a Loan, or I would pay the Amount to the Council on his Behalf, but I caution the Board againſt receiving any Bond, as a Counter Security, becauſe I do not admit the Debt; it ariſes from a Transfer or State of a Bond of Mr. Middleton's to me, the Deeds whereof Seroopchund has not yet perfected.

He claimed this Sum of me lately; I referred him to the Supreme Court of Judicature; where, if he does not commence a Suit againſt me, and thereby bring the Matter to an Iſſue, I ſhall ſue him, to oblige him to perfect the Deeds of Sale, as I have already paid a conſiderable Part of the Purchaſe Money.

Queſt. Did you lend Mr. Shakeſpear Money out of the Company's Caſh?
Anſ. I did not lend it him out of Company's Caſh.

Queſt. Have you any further Meaning in the Word "Mootalock?"
Anſ. I have no other Meaning; let the Council look at the Bond; (preſently afterwards he adds) there is likewiſe a Bill of Exchange of 60,000 Rupees on Mr. Day.

Queſt. Is that a Draft upon Mr. Day for any Remittance of Revenue?
Anſ. No; it is a Draft drawn by Mr. Hatch.

Queſt. Is it any way connected with the Company's Revenue?
Anſ. No, it is no way connected with the Company's Revenue; it is a Tranſaction between Merchants—Mr. Hatch owed me Money, and ſent me a Draft upon Mr. Day, for 6,000, in Part Payment; and they are both Company's Servants.

Queſt. Has the Bill been accepted?
Anſ. Mr. Day has not accepted it in Writing, but he ſaid he would pay it in Ten Days, as I could prove by many Witneſſes. Mr. Lodge owes me likewiſe 3,000 Rupees.

Queſt. Was that Money lent out of the Company's Caſh?
Anſ. No, it was not.

Queſt. The Company has no Concern in your private Tranſactions with others—The Board will not take the Bonds or Bills of Exchange, but require you to pay in the Balance immediately in Caſh?
Anſ. I will give theſe Bonds, to the Amount of 20,000 Rupees—The Balance I will pay in Caſh.

Queſt. The Board have already told you, they will not accept the Bonds, &c.—Will you, or will you not, deliver over the whole Balance in Specie?
Anſ. Repeats his former Anſwer.

Queſt. Will you pay the 20,000 Rupees likewiſe in ready Money?
Anſ. I will give the Bonds.

Queſt. Then you will not pay it in ready Money?
Anſ. I will not give it in Specie.

Queſt. You ſay you will not pay it in ready Money—Why have you not got the full Sum of 66,749 Rupees in your Cheſt, as you received it?
Anſ. Why ſhould it not be?—It certainly was in my Cheſt—Why don't Gentlemen pay me my Bonds, which are due?—The Money is not now in my Hands.—I will give thoſe Bonds for 20,000, or I will pay this Amount, when I recover theſe Bonds, or any other Debts.

The Board are clearly and unanimouſly of Opinion, from the repeated Refuſals of Seroopchund to pay Government's acknowledged Balance in his Hands, that he muſt neceſſarily ſtand diſmiſſed from his Office—That, for the Security of the Government's Money, it is abſolutely requiſite, that Seroopchund be immediately remanded into Confinement, there to remain till ſuch Time as he ſhall have paid the Amount—And the Dewan is ordered, immediately upon the Money being paid to him, to adviſe the Chief, in order that Seroopchund may be releaſed.

As the Board reſolve only to detain him under the Reſtraint of Two Peons, for the Balance of Duckenſavagepore, until the Pleaſure of the Governor General and Council ſhall be known, and Seroopchund is told "You are diſmiſſed from your Office of Koſſanchy; you will be detained in Confinement till you have paid the full Amount of the Company's Balance in your Hands; that paid, you will be immediately releaſed—And for the Balance of Duckenſavagepore, the Board will only continue Peons over you, till the Orders of the Honourable Governor General and Council ſhall be received."

The Board's Reſolution being explained to him, he ſays, I have committed no Stealth—If you hang me, I will not pay the Money.

The Reſolution being again repeated to Seroopchund, he deſires the Board will allow him to go every Day to his Houſe at Meal-time—This Liberty the Board judge it abſolutely neceſſary to refuſe him, becauſe he has obſtinately declared, that he will not make good the large Balance in his Hands, as Treaſurer; and his own Confeſſion proves, that he has ſhamefully abuſed his Truſt in that Office; and becauſe the Dewan informs the Board, that he underſtands Seroopchund has prepared Boats for his Journey to Calcutta. However, that there may be no Grounds for charging the Board with Severity in the Mode of Confinement, they particularly enjoin the Dewan and

Nazir, in Preſence of Seroopchund, to ſee that all his Servants and Relations have at all Times free Acceſs to him.

Whilſt the Board was ſitting, Mr. Peat, the Attorney's Portugueſe Writer, attended them, with a Writ under the Seal of the Supreme Court of Judicature, which he delivered into the Hands of the Chief, who began to read the ſame; but preſently afterwards the Meſſenger ſaid there was a Miſtake, that the Writ muſt be returned to him after Peruſal, and a corrected Writ would come up To-morrow; thereupon the Writ was cloſed, and the Meſſenger aſked, Whether he gave it as a valid Writ or not? And upon his declaring he could not ſay whether it was a valid Writ or not, and that his Orders were to take it back after Peruſal, the Writ was folded up and returned to the Meſſenger unread, who immediately went away.

The Chief obſerves, that in caſting his Eye over the Writ he is confident he ſaw Mr. Purling's Name ſtanding as Second of the Council, whereas the Name which now ſtands Second in the Judge's original Order for iſſuing a Habeas Corpus, and the Copies therewith delivered for each Gentleman, is that of "Matthew Day" written upon a palpable Eraſure.

Boidenaut, the Perſon mentioned in Seroopchund's Examination, being called in, is queſtioned as follows:

Queſt. What is your Buſineſs?

Anſ. I was formerly Servant of Nitanund, and ſince his Death have ſerved his Son Seroopchund.

Queſt. In what Capacity?

Anſ. For the Buſineſs of his Houſe as a Banker and Treaſurer for the Government.

Queſt. Were you employed for any Pergunnah Buſineſs?

Anſ. There is a ſeparate Naib (or Deputy) and other Servants for the Pergunnah Buſineſs. But I likewiſe am often ſent and employed by him in his Pergunnah Buſineſs alſo.

Queſt. Do you act entirely under the Orders of Seroopchund?

Anſ. He is my Maſter—Seroopchund is the eldeſt Brother; he has Four others, and I obey their Orders alſo.

Queſt. Who conducts the Buſineſs of the Pergunnahs for which Nitanund was Malzamin or Security.

Anſ. Hurry Kiſſen Buxey.

Queſt. Who enjoyed the Ruſſoom and other Profits, and paid the Revenues, ſince Nitanund's Death?

Anſ. The Writers and myſelf conducted the Buſineſs on the Part of Seroopchund, which Profits were received by Seroopchund.

Queſt. Has not Seroopchund been always conſidered as Malzamin for thoſe Pergunnahs formerly held by his Father?

Anſ. Yes.

Reſolved, That a compleat Copy of the foregoing Proceedings be now forwarded to the Governor General and Council, and that the original Orders ſerved upon the Board do accompany them, with the following Addreſs.

A true Copy.

Signed C. Burrowes,
Aſſiſt^t Secretary.

The Secretary having waited on the Attorney to the Company with the foregoing Papers, he lays before the Board the Attorney's Reply.

Attorney's Anſwer.

To Richard Sumner, Eſq; Secretary to the Honourable Governor General and Council of Revenue.

Sir,

On examining the Papers you left with me Yeſterday, I found the one ſigned by Mr. Juſtice Hyde to be only a Rule to ſhew Cauſe why a Habeas Corpus ſhould not iſſue to the Chief and Council of

Dacca, to produce the Body of Seroopchund, Coſſanchy. — I therefore immediately waited on him for that Purpoſe, and ſhewed him ſuch Part of the Proceedings as I thought were proper for him to ſee.

I did not chuſe to ſhew him that Part of the Proceedings where the Board reſolve to confine him for the Balance remaining due to the Company, as Coſſanchy or Banker, it not being clear to me that they are authorized to do that.

I could have wiſhed, that the oſtenſible Reaſon for the Confinement ſhould be on account of the 10,000 Rupees, due for the Revenues.

Mr. Juſtice Hyde ſeemed much diſpleaſed with the Gentlemen of Dacca; and aſſured me, that he believed the only Reaſon of the Confinement was, becauſe he had dared to proſecute ſome Perſon in the Supreme Court; and ſaid further, that he had Affidavits to prove that the Council of Dacca had abſolutely forbid Perſons to proſecute in the Supreme Court; and intimated, that they had been guilty of Contempt to the Court by theſe, and ſome other Acts of equal Impropriety.

He therefore ſaid, That in order to come at the Truth of theſe Facts, he ſhould, on Monday, grant the Writ, the Proceedings being by no Means ſatisfactory to him; as he well knew that the Gentlemen of Dacca knew better than to put any thing on their Proceedings, which would tell againſt them.

So that now the Man at all Events muſt be brought to Calcutta; I muſt therefore beg, that if there are any other Proceedings or Papers which can give a clearer Inſight into this Buſineſs, they may be ordered to be ſent me, in order to enable me to form the Return with more Certainty.

The Honourable Board will alſo judge how far it may be proper for them to obtain the ſigned Account (between him as Banker and the Company) ſpoke of in the Proceedings, in order that a Capias might be taken out thereon, for the Purpoſe of obtaining Bail for that Sum, ſhould the Judges think proper to releaſe him on the Habeas Corpus.

I am, Sir,
Your obedient humble Servant,
(Signed) Robert Jarrett.
Attʸ for the Company.

31ſt Auguſt 1777.

(Further Dacca Letter.)

Read the following further Letter from the Provincial Council of Dacca.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,

On the 26th Inſtant, we had the Honour to inform you of the Meaſures we had taken concerning a Writ of Habeas Corpus, for the Releaſe of Seroop Chund: We think it neceſſary now to add, that it has not again been brought to us, and that Seroop Chund ſtill remains a Priſoner in the Kellah, having paid into our Treaſury no more than 9,750 Rupees, in Part of the Balance of Rˢ 66,745. 15. 8. 2. then due from him. —

For your further Information on the Subject of this Tranſaction, we beg Leave to encloſe Extract from our Conſultation of the 18th Inſtant, in conſequence of a Petition delivered by Seroop Chund immediately after his Confinement.

We have the Honour to be,
Honourable Sir, &c.

Dacca,
Auguſt 28th 1777.

(Signed)
C. W. Boughton Rouſe,
J. Shakeſpear,
Wm Hollond.

(Encloſure.)

GENERAL APPENDIX, Nº 6.

(Encloſure.)

Extract of Proceedings of the Dacca Provincial Council of Revenue, Auguſt 18th 1777.

Read the following Petition of Seroopchund.

The Arzee of Seroopchund Doſs, Caſſanchy.

At the Time of the Committee's Bundebuſt, my Father Nitanund Doſs, Caſſanchy, was Security for Pergunnah of Duckanſavagepore; and I to the Year 1182, Bengal Stile, borrowed Money, and diſcharged the Government's Revenue, as it was demanded from the Sudder; under which Circumſtance, my Loans, agreeably to an Adjuſtment made with the Zemindars, amounting to Rupees, 68,499. 0. 3. Sicca, appeared due from the Zemindars, inſomuch a Bond and Kiſtbundeed was written and given for it. — In the Month Chait 1183 Bengal Stile, Mr. Purling demanded the whole of the Balance to the End of the Year, in the ſaid Pergunnah amounting to Rupees 19,667, and confined my Gomaſtah; on which the Zemindars ſtarting Objections, on account of the Plunder and Oppreſſion by the Invaſion of the Muggs, alſo objecting to the Encreaſe, delivered a Petition, and agreeably to the Repreſentation, thoſe Gentlemen liſtening to the Complaints and Objections through Friendſhip, and ordered a Deduction of Rupees 10,000, the Sum objected to, and took every Cowrie of the remaining 9,667 Rupees from me, releaſed my Gomaſtah from Confinement, ordering me not to demand of the Zemindars the 10,000 Rupees, admitted as a Deduction; that the above Sum admitted as a Deduction ſhould not be demanded of me; and I, agreeably to the Order of thoſe Gentlemen, gave a Deduction of, and remitted in the Jahood Kiſtbundy of the Arzemindar and Zemindar, Rupees 10,000, demanding of them the remaining Balance. Now the Gentlemen of the Council at this Time, Misfortune befalling me, having demanded the Amount Deduction of me, have thrown me into Confinement, which has rendered me helpleſs; beſides this, from the Time I have been diſpoſſeſſed of the Mhal: I therefore pray the Zemindar and Arzemindar being forth coming, that they may give an Anſwer relative to the 10,000 Rupees alſo, that I may not be diſgraced by unjuſt Confinement.

(Signed.) Seroopchund Doſs, Caſſanchy.

A true Tranſlate.
(Signed.) Wm Cator,
Perſian Tranſlator.

Roopchund, Brother of Seroop, and Boidenaut his Gomaſtah, in Attendance.

The Board referring to the Account of Balances, with the Explanation ſent down to the Governor General and Council, find, that the Balance of 10,000 C. Rupees, owing from the Malzamin of Duckanſavagepore, is attributed to the Contentions of the Partners, and that the Accounts are ordered for Examination. Farther, it appears by the Conſultations of April 7th, when the Claim was made by the Zemindars and their Security, that the Account was not granted in Abatement, nor even ordered in Suſpenſion by the Board, as alledged by the Petitioner, and his Gomaſtah now informed accordingly:—But as the Board cannot at preſent go into the Accounts diſputed, they conſent that Seroopchund ſhall be releaſed from his Confinement, with a Peon to attend him, upon his giving the Dewan a written Declaration, that he will pay up the whole Amount, if it ſhall hereafter be decided againſt him.

A true Extract.
(Signed) Hy Lodge, Secretary.

GENERAL APPENDIX, N^{o} 7.

(COPY.)

Letter from the Provincial Council of Dacca.

To the Hon^{ble} Warren Haſtings, Eſq. Governor General, &c. Council of Revenue, Fort William.

Hon^{ble} Sir and Sirs,

WE have the Honour to acquaint you, that Writs of Habeas Corpus have been ſerved upon our Board, and upon each of us, and our Nazir, ſeverally commanding us to have the Body of Seroopchund, Caſſanchy, immediately before Mr. Juſtice Hyde. We have likewiſe received a Letter of Inſtructions from Mr. Jarrett, the Company's Attorney, to whom we ſhall communicate every Information he may require. Our Nazir has received our Directions, to proceed with his Priſoner, without Delay, to Calcutta, where he will be guided by Mr. Jarrett in making a ſuitable Return to the Writs.

We are with Reſpect,
Hon^{ble} Sir and Sirs, &c.

Dacca,
Septem^{r} 5th, 1777.

(Signed) C. W. Boughton Rouſe.
John Shakeſpear.
William Hollond.

The Secretary having received the following Letter from the Attorney to the Company, he ſent it in Circulation, for the Opinion of the ſeveral Members of the Board.

To Richard Sumner, Eſq^{r} Secretary to the Hon^{ble} the Governor General and Council of Revenue.

Sir,

Pleaſe to acquaint the Hon^{ble} Board, that Seroopchund, Cazanchy, arrived Yeſterday in Calcutta from Dacca. I beg you will alſo let them know, that as ſoon as he arrived in Calcutta, he refuſed to ſubmit to any Kind of Reſtraint, and refuſed to come to me at all, although the Nazir's Orders from the Chief and Council of Dacca were poſitive to bring him; ſo that in caſe I ſhould not be able to deliver his Body at the Return of the Writ (which only waits for Mr. Juſtice Hyde's Order) it will not be my Fault, as I have not yet ever ſeen him.

I am, Sir, &c.

16th Sept^{r} 1777.

(Signed) R. Jarrett.

Attorney's Report.

Mr. Jarrett, the Company's Attorney, attending the Board, reports, That in the Matter of the Habeas Corpus, iſſued to the Chief and Council of Dacca and their Nazir, to produce the Body of Seroopchund, Cazanchy (ſaid to be confined by them) before Mr. Juſtice Hyde: On appearing, this Day, being the 19th September, before the ſaid Mr. Juſtice Hyde, Mr. Juſtice Le Maiſtre being alſo preſent, the Counſel for the Priſoner moved, to quaſh his own Writ for Informality; this was granted, and immediately another Writ was ſerved on Noor-ul-Dien in Court, and an Affidavit of Service produced; upon which the Priſoner's Counſel moved for an Attachment to iſſue againſt the ſaid Noor-ul-Dien, for want of a Return to the Writ juſt then ſerved. To this, every Objection was made that could be ſuggeſted; and no longer Time could be obtained than To-morrow, being Saturday the 20th Inſtant, for making the ſame; on which Occaſion Mr. J. Le Maiſtre delivered himſelf nearly to the following Purport:

"That there is no Doubt but a good Return may be made to a Habeas Corpus, for a Perſon taken in the Provinces at large; that there has been a very great Length of Time ſince this Habeas Corpus iſſued; that One Rule to ſhew Cauſe, was made for the Purpoſe; that therefore every Fact within the Knowledge of the Gentlemen of Dacca muſt be before the Board, and muſt by them have been communicated to the Company's Attorney; that the Man appears to be a Gentoo, and confined in ſuch a Manner, that he cannot eat or perform the Ceremonies of his Religion; that the Moulavie being aſked, If that was lawful, according to the Cuſtoms of the Country? he ſays, It is not, for it is treating him like a Thief, and that all Priſoners for Debt uſed to be allowed to go out to eat; that the Man being in ſuch ſtrict Cuſtody, they cannot, without Injuſtice to him, refuſe his Requeſt, of an immediate Return to the Writ, however deſirous they may be of acceding to their Wiſh of having the Aſſiſtance of Mr Chambers."

The Court alſo obſerved, upon the Motion made, as ſtated in the Brief, "That the Motion was improper; that an Habeas Corpus, the Governor General and Council ought to conſider the Court as always full; that it would be improper to keep a Man in Confinement on Account of the Abſence of One of the Judges."

Supreme Court of Judicature at Fort William in Bengal.

Rex Vs. Mahmud Noor-ul-Dien, in the Matter of the Habeas Corpus, to produce the Body of Seroopchund, Cazanchy.

In caſe the preſent Writ, in which the uſual Words *(together with the Day and Cauſe of the taking and detaining the ſaid Seroopchund, Cazanchy)* are omitted, ſhould be quaſhed for want of Form, and the Judges ſhould think proper to remand the Priſoner, and order a freſh Writ to be made out, for the Purpoſe of bringing him again before them on a future Day, You are then deſired to move the Court, That Time may be given for making a Return to ſuch Writ, until the Firſt or Second Day of next Term, or until ſuch Time as the Court ſhall be full, and aſſign as a Reaſon — *That the Governor General and Council conſider this* Buſineſs in ſo very ſerious a Light, and a Thing of ſuch Conſequence to the Company's Revenues and Collections thereof, in the Country at large, and in the Diſtrict of Dacca in particular, that they wiſh to have the higheſt Authority poſſible, either to confirm them in the Exerciſe of their Juriſdiction, as given them by the late Act of Parliament; to wit, the ſole Management and Government of all the territorial Acquiſitions and Revenues of Bengal, Bahar, and Oriſſa, or that it may be the Act of a full Court to aboliſh that Juriſdiction entirely, and by that Means effectually to put a ſtop to the Collections, and the realizing the ſaid Rents and Revenues in the ſaid Act mentioned.

(Signed) Robt Jarrett,
Atty to the Company.

Orders thereon.

Ordered, That the Attorney do make a Return to the Writ, but that he deſire Time to make a full Return, as the Attorney repreſents, that the Papers, which are ſent from Dacca, are not compleat.

Queſtion to the Roy Royan.

The Roy Royan being preſent, is aſked, Whether the Allegation of Seroopchund, of his not being allowed to eat and drink, is true? he anſwers, That he had that Liberty, and that the Officers who attend him will prove it.

Orders in conſequence.

Ordered, That the Attorney do receive their Affidavits to this Effect, and that he do annex them to the Return.

GENERAL APPENDIX, N° 8.

Revenue Department, }
Tueſday. }

Fort William, the 23d September, 1777.

At a Conſultation;

PRESENT,

The Honourable Warren Haſtings, Governor General, Preſident.
Richard Barwell, }
Philip Francis, } Eſquires.

Attorney to the Company.

READ the following Letter from the Attorney to the Company.

To Richard Sumner, Eſq. Secretary to the Honourable Governor General and Council of Revenue.

Sir,

Yeſterday Morning on the Meeting of the Court, the Affidavit of the Officers of the Khalſa having been ſworn, in order to ſhew that no unuſual Severity had been practiſed on Seroopchund, in his Confinement;

Mr. Newman moved, purſuant to his Inſtructions from me, for an Enlargement of the Time to make the Return until the next Term, or for ſuch Time as was ſufficient for making Enquiries in ſome Matters that were judged dubious, and receiving Anſwers to thoſe Enquiries from Dacca; and offered, that the Man in the mean Time ſhould be permitted to go out on Bail Twice a Day to eat.

The Court refuſed to grant the Motion, becauſe the Man was not to be ſet at Liberty, and was only to be allowed to eat his Victuals out of the Cutcherry.

Mr. Newman then, according to his Inſtructions, propoſed (that on the above being allowed) to give the Priſoner his Freedom on Bail in Calcutta, but that he ſhould not be permitted to leave the Settlement; but the Judges preſent, Mr. Juſtice Le Maiſtre and Mr. Juſtice Hyde, would not accede to any Terms unleſs a total Releaſe was given to the Priſoner, without Reſtraint or Confinement to any Place; and the Security given was to be in the following Words—" That he " ſhould appear and pay any Sum of Money which any competent Court of Judicature ſhould " adjudge to be due from him to the United Company of Merchants of England trading to " the Eaſt Indies."—This being a kind of Releaſe which I had no Authority to accede to, and the Bail Piece worded in that kind of Manner which I thought either entirely nugatory, or liable to many Litigations with Regard to the Opinion of the Judges preſent, as to the Competency of the Court which might decide hereafter on this Matter; I then directed Mr. Newman to move for Time, only until Monday, that I might receive Directions from the Honourable Board with Regard to this Matter; and that I then might have Time to make a fair Copy of the Return, which was then in a rough, unprepared, and incorrect State, having had Twenty-four Hours only to make it in, after the Writ was ſerved on the Nazir.—He even told the Judges we were not prepared, nor had Time to ſatisfy the Requiſitions of the Writ, and give the Return required; for that it was abſolutely neceſſary to ſend to Dacca, to know the Day on which Peons were firſt put over him, as well as to ſatisfy ourſelves in ſeveral other Particulars contained in the former intended Return, the Truth of which we had Reaſon to doubt from the Intimation of Mr. Juſtice Hyde on the preceding Day.—However, nothing would prevail or induce the Judges to grant, even until Monday, and we were then obliged (in order to prevent an Attachment againſt the Nazir) to produce and file the Return in the rough State it then was (without having even a Draft or Copy of it); after the entering and debating on which, until between Four and Five o'Clock in the Afternoon, the Priſoner was diſcharged, the Reaſons for which I do not here ſtate (as I took a Copy verbatim of Mr. Juſtice Le Maiſtre's Speech, and Judgment on the Occaſion) I will, when it is tranſcribed, ſend you a Copy of it, as alſo obtain a Copy of the Return as filed, and the different Affidavits, and the Orders made thereon, that the Honourable Board may be able to judge for themſelves,—I ſhould here obſerve, that after the Man was diſcharged from our Cuſtody, the Judges obliged him to give Security nearly in the Form I at firſt objected to.

I am, Sir, &c.

21ſt September, 1777. (Signed) Rob^t Jarrett,
Attorney to the Honourable Company.

P. S. When

P. S. When I came Home, I found a Letter from the Secretary to the Dacca Council; in which he informs, that Seroopchund's Repreſentatives had delivered in a Petition to them, which he ſent me a Copy of, and their Proceedings thereon; (the Petition appears to me to be ſimilar to that I heard read at the Board on Friday). He alſo ſent me the Account current, as now finally ſettled between the Company and Seroopchund; in which it appears, that he has, ſince the 28th Auguſt, paid Sicca Rupees Forty-ſix thouſand Five hundred and Eleven, Twelve Annas and Five Pice; and that, the Balance, as Cazanchy, is now exactly Sicca Rupees Twenty thouſand Two hundred Thirty-eight, Three Annas, Three Pice, and Two Gundies, beſides the Revenue Debt of Ten thouſand Sicca Rupees and Six Annas.

GENERAL APPENDIX, Nº 9.

CONSULTATION.

On the 17th November the Secretary wrote the following Letter to Mr. Barwell and Mr. Francis, by the Governor General's Deſire.

Gentlemen,

THE Governor General deſires that the Company's Attorney may be applied to for all the Proceedings of the Supreme Court, which have paſſed in the Caſe of the Releaſe of Seroopchund, by Writ of Habeas Corpus from Dacca, and his ſubſequent Diſcharge in Calcutta; as it is a Caſe of ſuch Importance as to require Reference to the Court of Directors.

I have the Honour to remain,
17th November 1777. Gentlemen, &c.
(Signed.) Rd Sumner.

Agreed,
Signed. {R. B.
{P. F.

Meſſrs. Barwell and Francis agreeing thereto, the Application was accordingly mad for the above mentioned Papers to the Company's Attorney.

Read the following Letter from the Company's Attorney.

To Richard Sumner, Eſquire, Secretary to the Honourable Governor General and Council of Revenue.

Sir,

According to your Deſire I now ſend you the Order of the Judges on the Releaſe of Seroopchund, and a Copy of Mr. Juſtice Le Maiſtre's Speech on the Occaſion. But as I have been ſo very much hurried in Buſineſs, I have not had Time to correct it; I beg you will return it me again for that Purpoſe.

I am,
Calcutta, 18th Nov. 1777. Sir, &c.
(Signed.) Robt Jarrett,
Attorney to the Company.

Supreme Court of Judicature at Fort William in Bengal.

George the Third, by the Grace of God of Great Britain,
France, and Ireland, King, Defender of the Faith, &c.

Upon reading the Return filed the Twentieth Day of September, One thouſand Seven hundred and Seventy-ſeven, to a Writ of Habeas Corpus, which iſſued the Nineteenth Day of September, One thouſand Seven hundred and Seventy, returnable inſtanter, commanding Mahmud Noor-ul-Dien to bring up the Body of Seroopchund, Coſſanchy, unlawfully detained in his Cuſtody, as it is ſaid, together with the Day and Cauſe of taking and detaining the ſaid Seroopchund, Coſſanchy, and upon hearing Mr. Newman and Mr. Lawrence, Advocates in Support of the ſaid Return, and Mr. Sealy, Advocate for Seroopchund, Coſſanchy, againſt the ſaid Return. It is ordered that the ſaid Seroopchund, Coſſanchy, be diſcharged upon his entering into a Recognizance with Two good and ſufficient Suret es, in the Sum of One hundred and Thirty-five thouſand Four hundred and Ninety-eight Sicca Rupees and Twelve Annas, to the United Company of Merchants of England trading to the Eaſt Indies, that he will appear and anſwer to any Suit or Suits to be inſtituted within One Year from the Twentieth Day of September One thouſand Seven hundred and Seventy-ſeven, by or for the ſaid United Company of Merchants of England trading to the Eaſt Indies, in any competent Court of Judicature lawfully eſtabliſhed, or to be eſtabliſhed, within the Provinces of Bengal, Bahar, and Oriſſa, and to pay all ſuch Sum and Sums of Money as ſhall by ſuch Court be adjudged to be due from him to the ſaid United Company of Merchants of England trading to the Eaſt Indies, with an Intereſt of Twelve per Centum per Annum from the Time the ſame became due. Witneſs Sir Elijah Impey, Knight, at Fort William aforeſaid, the Twelfth Day of July, in the Seventeenth Year of Our Reign.

20 Sept. 1777.

Signed, Ralph Uvedale,
Clerk of the Crown.

The King v. Noor-ul-Dien.

On the Return to Seroopchund's Habeas Corpus, Mr. Juſtice Le Maiſtre's Argument and Judgment:

The Matter of this Writ (although the Writ itſelf iſſued Yeſterday) has been for ſome Weeks well known to the Governor General and Council, who have had full Opportunity of having Information, and of inſtructing their Attorney and Counſel as to the Merits of the Firſt Writ of Habeas Corpus which iſſued. Willing to interfere as little as poſſible with the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues which is, by the late Act of Parliament, veſted in the Governor General and Council, and who in the Provinces have at leaſt a concurrent Juriſdiction with the Supreme Court, every Judge of the Court has been extremely careful in directing Writs of Habeas Corpus to iſſue there, unleſs there appeared ſtrong Grounds of Oppreſſion and Injuſtice, which ſeemed to require it. I have ſeen the Affidavits which were made before my Brother Hyde on Behalf of the Priſoner, and join in Opinion with him (knowing as I do, to what Reſentment a Man may be ſubject who ventures to make an Affidavit againſt the Act of Gentlemen armed with all the Power of the Eaſt India Company in the Provinces) that the making them public at preſent might very probably defeat the Purpoſes of Juſtice, and prevent a Scene of the fouleſt Oppreſſion being brought to light. The Priſoner, as a Suitor of this Court, is therefore particularly entitled to its Protection, very particularly ſo indeed, if there is any Reaſon to think, that, being a Man of known Solvability, he has been diſgraced and taken into Confinement, becauſe of a Suit which he has thought proper to inſtitute here. But what did my Brother Hyde do in this Buſineſs? he did not iſſue the Habeas Corpus immediately, but only an Order to ſhew Cauſe why an Habeas Corpus ſhould not iſſue. This is a Matter of Prudence, and particular Attention to the Company's Intereſt; it was meant to ſave them from the Embarraſſment of a Writ; and if they had made out, by Affidavit, that the Man was indebted to the Company this Sum of Money, and that he acknowledged it to be due, and gave no other Reaſon for not paying it than what has been ſuggeſted, I believe my Brother Hyde would not have iſſued the Writ of Habeas Corpus. I have more than once enquired into Cauſes from the Preſident of the Calcutta Committee, and governed myſelf accordingly; and ſhall be always happy in Caſes ariſing within the Provinces, to ſave the Company from every technical Embarraſſment. In this Caſe, no ſatisfactory Anſwer was given why the Writ ſhould not iſſue; in conſequence of which, Seven Writs of Habeas Corpus were directed to iſſue, One directed by Name to Five Gentlemen, who called themſelves the Chief and Council at Dacca, and to each of them ſeparately, and One to the Perſon in whoſe Cuſtody the Priſoner now appears to be, who is ſaid to have him in his Cuſtody at Dacca. The Man having been detained ſome Time in Confinement, my Brother Hyde thought that no further Delay ought to be occaſioned; we therefore wiſhed to ſend them before the End of that Week, in which the Rule to ſhew Cauſe expired. The Officer who iſſued the Writ, followed the only Precedent he had in his Office there being but One Record of this Court yet delivered to him, in which Precedent it ſeems was omitted the material Words "together with the Day and Cauſe" of the Priſoner ſaid to be confined. My Brother Hyde ſigned them ſomewhat in haſte, and they were ſerved at Dacca with that Error ſtill ſubſiſting. My Brother Hyde directed, that the Gentlemen of Dacca ſhould be informed, that if they made a Joint Return to that Writ in which they were all included, no ſeperate Return would be required from them. The Writs were ſerved very early in the Month; and the Company's Attorney informed my Brother Hyde on Tueſday, that he was ready to make a Return, and left with my Brother Hyde a Copy of a Return which he propoſed to make out for thoſe Gentlemen who called themſelves the Chief and Provincial Council of Dacca, but only for the Man who appears to be the inferior Officer of thoſe Gentlemen, in whoſe actual Cuſtody he was. My Brother Hyde ſent me a Copy of that Return into the Country, and deſired my Attendance on Friday, the Day he appointed to receive it. I returned to Town on Thurſday Night, when I heard, for the Firſt Time, that the Company's Law Adviſers had found out a flaw in the Writ, which they deſigned to avail themſelves of, and abandon the Merits. I found, that a Copy of the Return had been left at my Houſe, differing from the other Return; ſimply averring, having brought the Man in obedience to the Writ, but ſhewing no Cauſe for the taking and detaining him; and this Return was the next Day preſented by the Company's Advocate, as the Return they meant to abide by. Before the Sitting of the Court, the Priſoner's Attorney, aware of the Error, obtained from my Brother Hyde an Order for another Writ of Habeas Corpus, returnable inſtantly; which was ſerved upon Mahomed Noor-ul-Dien, the Perſon in whoſe Cuſtody he was brought here; and upon the Opening of the Court, the Priſoner's Advocate moved to quaſh the firſt Writ that had been directed to Mahomed Noor-ul-Dien, and moved for an Attachment for Want of an inſtant Return. To the other, Mr. Newman, the Company's Advocate, very properly obſerved, that the Motion for an Attachment was premature; that the Writ was an Engliſh Writ ſerved upon a Native, and that Juſtice required he ſhould have Time to have it explained to him, and alſo to conſult his Counſel and Attorney. We admitted the Propriety of this Remark; but as it appeared from the other Return, a Copy of which was delivered to us, that this Man was ready to make a Return on the Merits, if the Error in Queſtion had not been diſcovered, we thought, that by Eleven o'Clock this Day there would be full Time ſufficient to ſtate the Facts, and the Title upon which they meant to rely. My Brother Hyde threw out, very candidly, to the Company's Advocate, that from the Affidavits that had been ſworn before him, he had Reaſon to think that ſome of the Facts ſtated in the Copy of the Return that had been before ſhewn us, were not true. Mr. Newman, from Inſtructions he had received from the Governor General and Council, ſuggeſted to us, that this Matter, being the Firſt of its Kind, and the Governor General and Council conceiving it of the utmoſt Importance to the Company's Revenues, they directed him to requeſt of the Court, Time to make the Return till the Firſt Day of the next Term; that in a Matter of ſuch great Moment, the ſolemn Acceſſion of a full Court might be had thereupon. In anſwer to which we informed him, that unleſs the uſual Terms were complied with, of letting the Man out upon Bail in the mean Time, we did not think ourſelves warranted in enlarging the Time for ſo long a Period, and more eſpecially as the Man complained that he was kept in ſuch cloſe and ſtrict Confinement, that he was not ſuffered to go out of the Priſon Doors to take his uſual Meals, without affecting his Caſt. Lottafulla, the learned Moulavie, preſent, being aſked, Whether a Confinement of this Nature was a proper Confinement of a Debtor for Revenues, ſuppoſing the Confinement itſelf lawful? told us, It was not; and that ſuch Confinement was fit only for a Thief. We met this Morning to receive the Return; Mr. Newman again applied to us to enlarge the Return; and to take away the Impreſſion which the extraordinary Degree of Impriſonment might be ſuppoſed to have made on our Minds, he introduces an Affidavit from Two Men, one called Mahomed Aſhruf, the other Golaum Gare, telling us, that this Man eat his Victuals in the Cutcherry on Wedneſday, without objecting to the ſame, or aſking to go out for that Purpoſe. Mahomed Aſhruf ſays, that he told him he might go out to eat, if he would find Security; and tells us, that about Three o'Clock in the Afternoon he eat again; that on Friday he eat as uſual; by which we ſhould be induced to think, that the Suggeſtions of the Priſoner were falſe; and though theſe Depoſitions ſwear it is the Cuſtom of the Khalſa, to let People go out, yet this Man was not ſo ſcrupulous of his Caſt, but eat in Priſon: Whereas, by the Affidavit of the Priſoner, it appears, that he only eat a ſmall Quantity of dried Sweetmeats, Bread, and boiled Ghu, which it ſeems is allowed him by the Principles of his Religion. Mr. Newman preſſed again for enlarging the Time for making the Return, offering to let the Man out Twice every Day to eat his Meals; but being informed that the Court would not accede to this Propoſal, and like a good Advocate for the Company, giving up as little as he could help at a Time for his Clients, he goes on a little further, and offers, that he ſhould be let out of Confinement, provided he would give Security not to leave Calcutta; but the Court ſhewing no Inclination to deviate from the Terms which continually and invariably have been inſiſted on in other Caſes, he goes to the utmoſt Extent of his Inſtructions, and that is to let the Man out on Security, to go wherever he pleaſes, except to Dacca. This, it ſeems, is the Ultimatum: It is, it ſeems, not to appear at Dacca that this Man is at Liberty; and yet if the Governor General and Council think, that upon further Time being given to them to make a Return, they can make ſuch a Return as will be ſufficient before a full Court; very ſhort would be the Triumph of this Man; and the more the Triumph, the more his Diſgrace on being taken into Cuſtody again. It is impoſſible, if the Man has common Senſe himſelf, or will ſuffer himſelf to be adviſed by his Advocate or Attorney, to think that he would not wiſh to continue in Calcutta; and there can be no Reaſon why they ſhould refuſe to accept the uſual Terms, unleſs to throw the Court into Embarraſſment, which the Care and Attention of the Court, and the Reſpect it has ſhewn to them, does not ſeem to deſerve. We did not aſk for any new and extraordinary Terms; but they aſked of us, what never was requeſted of any Court of Judicature whatever, that we ſhould poſtpone our Determination, becauſe One Member of the Court was abſent from Calcutta. We are very unhappy in being deprived of the able Aſſiſtance of my Lord Chief Juſtice, and our Brother Chambers, and we ſhould gladly have acceded to an Enlargement of the Time for making the Return, which would have procured us that Aſſiſtance, if we thought we were warranted in deviating from the Practice before obſerved. We think that we are not, and therefore were about to proceed into the Enquiry of the Impriſonment and Detention of this Man, for which there appeared no Cauſe whatſoever, when Mr. Newman at laſt produced the Return which is now before us; apologizing for Inaccuracies and Inſufficiences on the Shortneſs of Time allowed him to make it in; relying upon this ſtrong Ground, ſuggeſted by the Return, that the Priſoner is conſiderably indebted to the Company for Rents and Revenues; that the Money was demanded of him, and he acknowledged it to be due, which Mr. Lawrence obſerves ought to be conſidered equal to a Judgment of the Confeſſion of the Party; that the ſubſtantial Merits appearing to be with the Company, he ſtrongly enforced to us the Neceſſity of a liberal Conſtruction of the Return: And I confeſs I am very much of his Opinion, and would upon this Occaſion readily paſs over ſlight technical Errors, if there were no Errors which I conceive to be Matter of Subſtance.—This Return, like the Two or Three laſt which have been preſented, has ſet up a Title of the Governor General and Council, by themſelves and their Servants, in all Matters concerning the Territorial Acquiſitions and Revenues, to do whatever the late Preſident and Council, or Select Committee, at the Time the late Act of Parliament paſſed, then did, or at any Time heretofore might have done; without ſetting forth, as Mr. Sealy, the Priſoner's Advocate, well obſerves, in what Right the late Preſident and Council, and Select Committee, did the ſame. It is ſuppoſed to be ſufficient to tell us, that at the Time that Act of Parliament paſſed, a Power of Impriſonment, without Bail or Mainprize, was uſed and executed by the Officers and Servants of the Eaſt India Company, in the Provinces under the Authority of the late Preſident and Council, or Select Committee; from which we are bound to draw the Conſequence, that ſuch Power is legal, being confirmed by the late Act of Parliament, whether it were or were not legal in its Commencement. Now, the late Act of Parliament recites in the Preamble, that divers Abuſes have crept into the Company's Affairs, as well in India as in Europe. The Act is manifeſtly remedial, and for that Purpoſe appoints a Governor General and Four Counſellors, and declares that the whole Civil and Military Government of the Preſidency of Fort William in Bengal, and alſo the Governing, Ordering, and Management of all the Territorial Acquiſitions and Revenues, ſhall be veſted in them, in like Manner, to all Intents, and Purpoſes, as the ſame then were, or at any Time heretofore might have been uſed and exerciſed by the late Preſident and Council and Select Committee. If a ſtrict Conſtruction be given to the Words ſo as to be exactly in the ſame Manner, and ſo as to be in like and no other Manner, then it will follow, that whatever Abuſes had crept into the Company's Affairs, they will be ſo far from being removed by the remedial Law, that a Practice which might have been before unlawful, will be rendered lawful during ſuch Time as the Governor General and Council, ſhould think proper to continue it; and an Act which would have ſubjected the Officers of the Company to an Action in the late Mayor's Court, to which no legal Juſtification could be ſet up, may be juſtified in this Court, under this very Act of Parliament which has thought proper to eſtabliſh this Court, becauſe the State and Condition of the Eaſt India Company is ſo altered by the Territorial Acquiſitions and Revenues, as to require a more competent Judicature; and yet the more compleat Judicature, it is contended, by the late Act of Parliament is rendered leſs competent in all Matters concerning the Territorial Acquiſitions and Revenues, than the former Tribunal. The more I conſider this Subject, the more my Reaſon revolts, at finding out in the late Act of Parliament any Confirmation or Intent to confirm, any thing which my Reaſon, guided by Principles of Juſtice, tells me is an Abuſe, that the inferior Officers and Servants of the Eaſt India Company, at a Diſtance from the Preſidency, ſhould exerciſe a Miniſterial Power of Impriſoning, without Bail or Mainprize, all ſuch Perſons as they ſhall deem indebted to the Company for Rents and Revenues, ſtrikes me as the moſt arbitrary Abuſe of a Power, which under the Dewan was, as we have been informed by the learned Moulavies Judicial. Theſe learned Moulavies, who were ſworn, truly to deliver to us the Laws, Cuſtoms, and Uſages of the Country, are the only Guides we have to inform us what is, or what is not, an oppreſſive Impriſonment in Revenue Matters. They ſeem to admit, that a Miniſterial Power of Impriſonment does exiſt in the Firſt Inſtance, to ſecure the Debt; but they tell us, that the Party ſhould be at full Liberty to be heard againſt the Demand made, and the Account on both Sides ſhould be examined: This meets my Idea of a legal Proceeding. And in Fact they go further, and tell us, that a Court of Juſtice did uſe to decide Revenue Matters. We well knew that the Court of Directors have repeatedly and uniformly in all their Public Letters, expreſſed a Deſire that Juſtice ſhould be ſtrictly and impartially adminiſtered throughout the Provinces in the Poſſeſſion of the Company; I will be bold to ſay, that they never dreamt that they had excluſive Right to be exempt from the Proceſs of ſome Court of Juſtice, in all Matters concerning their own Revenues. I am induced to think ſo from the printed Paper of Inſtructions which they ſent out to their Superviſors, which bears Date the 18th October 1772, a Sight of which I have been favoured with by a Gentleman reſident in this Place. I find they delegate their Power in the following Words: "We give you full Power to ſuperintend, direct, controul, conduct, manage, and tranſact, all the Buſineſs and Affairs of the Company, reſerving, nevertheleſs, and always excepted out of this Commiſſion, all the legal Judicature, and all Courts of Civil and Criminal Juriſdiction, and Courts Martial in India, granted or eſtabliſhed by any Act of Parliament, or by any Royal Charter or Charters, to negociate, to make Treaties, to ſuperintend, inſpect, manage, order, direct, and conduct all Affairs, Matters, and Things, which in any way relate to or concern the ſaid United Company's Dewannee, or Revenues, in India; to collect all Debts and Demands due and owing in India, upon any Account whatſoever; to give Receipts, with full Power to compromiſe, confirm, and ſettle all Accounts and Differences touching and concerning the ſame:" And then follow theſe material Words (to guide the Conduct of thoſe who are to order and manage, and collect, in what Mode or Manner they are to do it) "And to that End and Purpoſe, in the Name and on the Behalf of the ſaid United Company, by "due Courſe of Law, to ſue for and recover the ſame." Now it is notorious, that the Court of Directors meant to delegate, and did actually delegate, to the Superviſors, every Power that they were adviſed by the ableſt Counſel in England they could delegate: They were to paramount the late Preſident and Council, or Select Committee, whoſe Conduct they were to ſuperviſe. More Power therefore cannot be preſumed to have been delegated to the late Preſident and Council; and therefore no more Power could reſt in the preſent Governor General and Council by the Transfer of the Powers of the late Preſident and Council in the late Act of Parliament, to them. A ſtronger Ground of Preſumption ariſes, that more Power could not be meant to be given, becauſe more Power would be a Power above Law. They were, in every Caſe of diſputed Debt to the Company, as well for Revenues as for other Matters, by due Courſe of Law, to ſue for and recover the ſame. The late Act of Parliament recognizes Courts of Judicature in the Revenues, but from what Part of that Act of Parliament the Eaſt India Company derives an Exemption, paramount to any other Subject, from ſuing at all, we are yet to learn. The Report of the Secret Committee ſtates Courts of Juſtice in the Provinces competent to decide Matters concerning the Revenues. Perhaps theſe Provincial Councils may be Courts of Juſtice of this Nature. We would not ſcan with Niceneſs and Exactitude the Title by which Courts are held within the Provinces. We know that Difficulties accrue from the unſettled State of the Country, but the eſſential Requiſites of a legal Proceeding, it is in the Power of the Governor General and Council to direct, ſhall be obſerved as well in Matters concerning the Revenues of the Company; as in Matters of meum and tuum, between Man and Man. Nor can I think there is a Country in the World ſo arbitrary and deſpotic, that a conſcientious Judge is bound to admit as lawful, a Miniſterial Power to impriſon, without Bail or Mainprize. Let them ſtate a legal Proceeding ſomewhere, and a Commitment in Execution in a Return, and we ſhall underſtand them. If the legal Proceedings be fully ſtated, and the Judgment in conſequence thereof, whether the Court be held under the Company, or the Sovereign of the Country, as at preſent adviſed, I think the Return would be good. But we can attach no legal Idea to the Word Adjuſtment of an Account; which may perhaps, for what we know, be a Settlement of an Account Current, in the Abſence of One of the Parties, or a Commitment as in Execution, which is not averred to be a Commitment in Execution. It is true, that the preſent Return differs widely from the late Returns which we have had, which have generally been diſputed Balances of Account; whereas the preſent Return means to give us to underſtand, that the Priſoner actually acknowledged the Debt upon the Demand of it; but it is fallaciouſly ſtated; there is no poſitive Averment that he did ſo acknowledge it. I doubt much whether if the Fact be falſe, that it is aſſerted with ſufficient Certainty to maintain an Action for a falſe Return; and I the more ſuſpect it a Fallacy like that in the Affidavit produced to us to Day, whereby we are to be made underſtand, that the Man eat in the uſual Manner, becauſe it is in direct Contradiction to the Oath of the Priſoner, which induced my Brother Hyde to iſſue the Writ; and though we cannot go out of the Return ſo as to make uſe of that Affidavit to falſify the Return, yet if inſtead of poſitive and direct Aſſertions, vague Terms are made uſe of, the poſitive Oath of the Party will ſo far weigh with us, as to ground a Preſumption that the Acknowledgment of the Debt was aſſerted indirectly, becauſe it could not be aſſerted directly; and this Objection would have been a ſtrong One, had they even ſtated in Terms like the preſent, a Judgment by Confeſſion in a competent Court. In the ſame Manner they do not ſtate directly, but this Man is liable to pay the Rents accrued due from the Farm; they only ſtate, that he has had the Management of the Farm for Three Years, which he may have had without being liable for the Payment of the Rents of it. It ſhould at leaſt have been affirmatively ſtated, that by entering on ſuch Management of the Farm, he became liable for the Payment of the Rents thereof. In the First Return he is ſtated to be the Farmer; in the preſent Return we are told he is only the Son of a Man who became Security: Neither is it aſſerted, that, according to the Laws, Cuſtoms, and Uſages, the Son is bound by all the Engagements of the Father. This uncertain Part of the Return again directly contradicts the poſitive Affidavit of this Man; who, before he procured the Writ of Habeas Corpus, poſitively ſwore he was not indebted to the Company for Rents and Revenues; and though the Affidavit on which the Writs are grounded are not filed of Record, and made public at preſent, I am ſure it is not the Intention of my Brother Hyde to keep them longer private than ſeems requiſite for the Purpoſes of Juſtice, and they will be forth coming, ſo that an Indictment for Perjury may be proſecuted againſt him if he has ſworn falſely. With Regard to the Sum of 66,749 Rupees, this does not appear to be a Revenue Debt; for he is not ſtated to be the Company's Treaſurer, but the Treaſurer of the Chief and Council of Dacca; and, though they do ſtate that the Money in his Hands ariſes from the Collections of the Revenues, yet that does not ſeem ſufficient for us to warrant that Proceeding, which, we are told, prevails in Caſes of the Company's Farmers. Thus Under-farmers and Securities, at leaſt that is a new Point which has never yet been before the Court: at the firſt Bluſh of it he appears, to us to be in the Nature of the Banker to the Gentlemen at Dacca; that the Matter is Matter of Contract between him and them, and a Matter in which they could not be competent Judges, becauſe they are the Perſons who place the Money in his Hands. It is a Matter of Contract between him and them, for which, if there is any Diſpute, they muſt ſue elſewhere, and not before themſelves; he being ſtated, as is ſaid before, to be their Treaſurer, not the Treaſurer of the Company. And therefore, admitting that they may adjuſt and adjudge the Demands of the Company, there is no Principle of Law by which they can claim to decide their own Demands, or to commit in Execution until their Demands are ſatisfied.—But who are the Provincial Chief and Council of Dacca? We are told, in the Beginning of the Return, that they are thereinafter named; but in no ſubſequent Part of the Return are they named—They are no Corporation in the Eye of the Law—The Chief and Provincial Council of Dacca is an ideal Body—The Man who ſtates a Right to detain in Cuſtody, under the Orders of others, muſt give the Party the Names of the Perſons who ordered him, in order that he may ſee them; and he might as well ſay, that he was commanded by the King of the Fairies, becauſe the Law knows no ſuch Body.—Theſe, ſurely, are more material Errors in the Return before us, than thoſe Twice held by the Court to vitiate a Return in Comaul's Caſe, and by thoſe of the Judges, who were the moſt converſant with the Intentions of thoſe who brought in, and thoſe who drew the Bill.—Upon the Authority, therefore, of that Caſe, I ſhould think myſelf fully warranted in declaring my Opinion, that this Return is inſufficient.—But, erroneous as the Return is, I do not like the diſcharging a Man who appears to have been entruſted with Sums of Money by the Agents and Servants of the Company in the Provinces.—It does not appear that this Man is an Object of this Court, or at leaſt no otherwiſe ſubject than as employed by the Company, or Britiſh Subjects.—The Writ of Habeas Corpus therefore is not, I think, ſtrictly a Writ ex debito Juſtitiæ, with Regard to him, he not being to every Intent and Purpoſe a Subject of His Majeſty the King of Great Britain; not even owing legal Allegiance, he not being ſtated to be reſident within Calcutta, or any of the ſubordinate Settlements.—It is to the Favour of the Law that he owes the Benefit of this remedial Writ, which it is diſcretional in us to grant or refuſe.—We will therefore not diſcharge him immediately, but reſerve the Matter for the Opinion of our Brethren at ſome future Period, unleſs he will give Security to appear and anſwer to the United Company of Merchants trading to the Eaſt Indies, to any Suit or Suits to be inſtituted by them in any competent Court of Judicature lawfully eſtabliſhed, or to be eſtabliſhed, within the Provinces of Bengal, Bahar, and Oriſſa, and to pay all ſuch Sum and Sums of Money as ſhall be adjudged to be due to the ſaid United Company, together with an Intereſt of Twelve per Cent. per Annum from the Day the ſame became due. I am well aware that this is out of the common Practice in Matters of Habeas Corpus; but I think it ſafer, if we muſt deviate ſome how or other from the Law of England, to put Terms upon the Priſoners diſcharged, than to admit vague and inſufficient Returns, which opens a Door to the moſt dangerous Diſcretion. What inclines us in this Caſe, to demand Security from the Priſoner, is, that he is called in the Return "Treaſurer to the Chief and Council "at Dacca." This may be a mere Inaccuracy, and he may be the Company's Treaſurer: If ſo, it might be of dangerous Example to diſcharge him without giving the Company an Opportunity of amending ſuch an Informality, and ſuch Informality being amended, to diſcharge him without his giving Security to make up his Accounts, more eſpecially, as the taking of him to ſecure the Debt, may, according to the Cuſtom of the Country, be lawful, though the Detention of him, when he offers Security, would not be ſo.

Application to the Attorney.

Ordered, That the Secretary do apply to the Company's Attorney, for Copies of all the Depoſitions taken before the Court, in the Cauſe, Rex verſus Noor-ul-Dien.

Board's Minute.

And as it appears from Mr. Juſtice Le Maiſtre's Argument, that Affidavits were taken before Mr. Juſtice Hyde, but not entered on the Proceedings of the Court, containing Charges of a very criminal Nature againſt ſome Perſon or Perſons, whoſe Names are not mentioned, but who, as we conceive, can be no others than Servants of the Company, or others acting under their Authority:

Letter to Mr. Juſtice Hyde.

Agreed, That the following Letter be written to Mr. Juſtice Hyde.

To Mr. Juſtice Hyde.

Sir,

As it appears from Mr. Juſtice Le Maiſtre's Argument on the Return to the Writ of Habeas Corpus, iſſuedto Noor-ul-Dien to produce Seroopchund, that Affidavits were taken before you, but not entered on the Proceedings of the Court, containing Charges of a very criminal Nature againſt ſome Perſon or Perſons whoſe Names are not mentioned, but who, as we conceive, can be no other than Servants of the Company, or Perſons acting under their Authority; we requeſt, that you will be pleaſed to furniſh us with Copies of them, if they reſpect the Conduct of any of our Servants or Dependants.

Fort William,
18th Nov^{r} 1777.

We are, &c.

Papers on this Subject to be referred to the Court of Directors.

Reſolved, That the whole of the Papers relative to this Subject, be referred to the Court of Directors, with a Requeſt, that they will peruſe them attentively.

GENERAL APPENDIX, N° 10.

Rev. Dep.

Extract of the Governor General and Council's General Letter, dated 18th Nov. 1777.

Par. 84. WE have the Honour to encloſe you a N° in the Packet, complete Extracts of our Proceedings, of which we requeſt your attentive Peruſal, relating to the Confinement of Seroopchund by the Chief and Council of this Diviſion, who was brought down to Calcutta by a Writ of Habeas Corpus, and releaſed by Order of the Supreme Court of Judicature on the 12 July laſt.

GENERAL APPENDIX, N° 11.

Extract of the Revenue Letter from Bengal, dated 19th Auguſt 1778.

IN a Letter which we lately received from the Provincial Council of Moorſhedabad, they have informed us, that they have hitherto been unable to collect any Rents from the Zemindarry of Futty Sing, owing to a Warrant of Sequeſtration, to ſatisfy a private Debt, by the Supreme Court; who have ſent up a Serjeant to execute it; and that he had ſealed up the Cutcherry and other Dufters or Officers of the Revenue of the Zemindarry, and put a total Stop to the Collections.

To prevent any further Interruption to the Collection of the public Revenue, and for other Purpoſes, which are contained in our Proceedings, we reſolved, immediately on the Receipt of the above Information, to depute a civil Servant to take Charge of the Management and Collection of the Revenues of the Zemindarry of Futty Sing; and for this Purpoſe we appointed Mr. William Wroughton, and directed him to proceed thither without Delay.

We have further thought it neceſſary to inſtitute a Suit in the Supreme Court of Judicature, againſt the Sheriff or his Officer, for the Loſs which the Company has ſuſtained in the Collection of the Revenues, by the Affixture of the Sheriff's Seals to the Cutcherry and other Places of the Revenue of the Zemindarry of Futty Sing, and for other Acts committed by the Sheriff's Officers, in Obſtruction of the public Revenue of that Zemindarry; eſtimating the Loſs by the Monthly Kiſts from the Time of the Arrival of the Sheriff's Officer in the Diſtrict.

GENERAL APPENDIX, N° 12.

Extract of the Revenue Letter from Bengal, dated 4th December, 1778.

IN the 26th, 27th, and 28th Paragraphs of our Letter, per Eagle, we had the Honour to inform you of the State of the Zemindarry of Futty Sing, and of the Meaſures we had adopted for the Security of the Revenue, and the Management of the Collections.

The Superintendant of the Khalſa reported to us, that Publication had been made, by Order of the Supreme Court of Judicature, for the Sale of the Zemindarry of Futty Sing, on the 4th November laſt, if the Zemindar's Debt to one Jogomohun, for which they had granted a Bond in the Name of Ramnaut Mullick, was not by that Time diſcharged.

Having obtained a Copy of the Publication made by the Sheriff for the Sale of the above Zemindarry, and being of Opinion, that the intended Act of the Sheriff was contrary to the Law and immemorial Practice of this Country, by which no Zemindarry can be alienated or transferred from the actual Zemindar, without the Conſent and formal Sanction of Government firſt had and obtained; nor the new Zemindar allowed to enter on Poſſeſſion, or to collect the Rents from the Ryots, or to exerciſe any other Zemindarry Rights, without a Sunnud granted by Government for thoſe Purpoſes; and if permitted to take Effect, would not only be ſubverſive of the Rights veſted in the Company, and in this Government, by the Clauſe of the late regulating Act of Parliament, which enacts "that the Ordering, Management, and Government of all the Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar and Oriſſa, ſhall, during ſuch Time as the Territorial Acquiſition and Revenues ſhall remain in the Poſſeſſion of the Company, be veſted in the Governor General and Council of the Preſidency of Fort William in Bengal, in like Manner, to all Intents and Purpoſes whatſoever, as the ſame are now, or at any Time heretofore might have been, exerciſed by the Preſident and Council, or Select Committee in the ſaid Kingdoms;" but might eventually affect the Right of every Zemindar in this Country. We were unanimouſly of Opinion, that it was our eſpecial Duty to uſe every Means which we lawfully might, to prevent ſo dangerous a Precedent; for which Purpoſe we reſolved that the following Advertiſement ſhould be publiſhed:

> "Whereas an Advertiſement has been publiſhed, by Order of the Sheriff, for the Sale of the
> "Zemindarry of Futty Sing, on To-Morrow, being Wedneſday the Fourth of November;
> "Notice is hereby given, That no Sale or Alienation of a Zemindarry in the Juriſdiction
> "of the Dewannee of Bengal, Bahar and Oriſſa, is or can be valid, without the Conſent and
> "Concurrence of the Governor General and Council being firſt had and obtained; nor any
> "Perſon allowed to take Poſſeſſion under ſuch a Sale, or to levy Rents from the Ryots,
> "or to exerciſe any other Rights as Zemindars, without a Sunnud granted for thoſe Pur-
> "poſes: And that this warning is given to prevent the Conſequence to which Perſons diſ-
> "poſed to bid at the public Auction for the Zemindarry above-mentioned, might be liable,
> "through Ignorance of them."

The Period fixed on for the Sale being the Day after theſe Reſolutions were formed, we cauſed Copies of the Publication to be delivered to the Vakeels of the Zemindars, and directed the Superintendant of the Khalſa to circulate them, by every other Means which he might judge proper.

As a mark of Reſpect from us to the Judges of the Supreme Court, the Company's Attorney was directed to inform them of the Advertiſement publiſhed by the Sheriff, and of the Reſolution we had taken thereupon; ſubmitting it to their Judgment, to iſſue ſuch further Orders and Inſtructions to the Sheriff, for his better Guidance, as the Nature and Circumſtances of the Caſe, and the Danger of eſtabliſhing ſuch a Precedent, might appear to them to require.

We inſtructed the Commiſſioner of Law Suits to give us Notice of the ſubſequent Proceſs and State of this Buſineſs; who in conſequence laid before us a Report, containing a particular State of the Caſe, and ſubmitted to us at the ſame Time, ſome Propoſitions on the Subject.

Having duly conſidered them, we judged it adviſable to direct the Commiſſioner of Law Suits to aſſure the Sheriff, that if in Conformity to the Opinion which he had given in our late Publication, he would remove his Seals and return his Writ againſt the Zemindar of Futty Sing, Nulla Bona, we would defend the Suit which might be brought againſt him in conſequence by the Plaintiff. It may be proper to obſerve, that this Reſolution was conformable to an Offer which the Sheriff had previouſly made to the Commiſſioner of Law Suits.

You muſt be ſenſible of the Embarraſſments under which we labour, in being thus obliged to give Indemnifications at the Suits of Individuals; yet it is the leaſt Evil to which your Government here is expoſed, and the only Mode left us to prevent Conſequences of a more alarming and dangerous Tendency.

This Caſe being without Precedent ſince the Eſtabliſhment of the Supreme Court, no Queſtion having been agitated before it, which could bring the Rights of Zemindars to a Deciſion, we requeſt your particular Attention to our Proceedings on this Subject, and to the Report of the Commiſſioner of Law Suits.

Fort

GENERAL APPENDIX, N° 12.

Fort William.

Extract of Conſultation, held the 4th Auguſt 1778.

PRESENT,

Governor General,
Mr. Francis.
Mr. Wheler.
Mr. Barwell, abſent.

Ordered, That the Commiſſioner of Law Suits do commence a Suit againſt the Sheriff, or his Officer, for the Loſs which the Company has ſuſtained in the Collection of the Revenues, by the Affixture of the Sheriff's Seals to the Cutcherry, and other Dufters or Officers of the Revenues of the Zemindarry of Futty Sing, and for the other Acts committed by the Sheriff's Officer, in Obſtruction of the public Revenue of the ſaid Zemindarry; eſtimating the Loſs by the Monthly Kiſts, from the Time of the Arrival of the Sheriff's Officer in the Zemindarry.

Revenue Department.

Extract of Conſultations held at Fort William the 13th November 1778.

Report from the Commiſſioner of Law Suits.

The Commiſſioner of Law Suits, in purſuance of their Orders, to report from Time to Time, on the propoſed Sale of the Zemindarry of Futty Sing, begs Leave to inform the Honourable Board, That the Reſolutions of the 3d Inſtant, on the Sheriff's Advertiſement, were duly communicated, by the Company's Attorney, to Sir Robert Chambers and Mr. Hyde, the only Judges of the Supreme Court then in Calcutta.

The Action in the Supreme Court, againſt the Zemindars of Futty Sing, was brought on a Bond granted by them, ſubjecting themſelves to the Juriſdiction of the Supreme Court; which, whatever the real Circumſtances of the Caſe may be, has the Appearance of being for a Loan from a Merchant, to enable them to pay up their Revenue. On this Bond, Judgment paſſed againſt them; a Writ of Execution was of Courſe taken out; the Zemindars abſconded; and the Sheriff, underſtanding that they had Houſes, and were Proprietors of extenſive Territories, attached the Zemindarry, and advertiſed it for Sale.

According to the Practice of the Supreme Court, it is left to the Sheriff to attach and diſpoſe of the Effects and Property of a Party againſt whom a Writ of Execution iſſues; and as he cannot, in this Country, ſummon a Jury to determine the Diſputes which naturally ariſe concerning the Right to ſuch Property, he is obliged to act from the beſt Information he can procure, taking, in any doubtful Caſe, an Indemnification from one Side or the other, in order to ſecure himſelf from the Damages which he is liable to in caſe of a Miſtake. The Court give no Inſtructions in ſuch Caſes. It cannot by Intuition know, whether or not a Defendant holds ſuch a Property in the Thing attached, that it may be ſold and applied to the Diſcharge of his private Debts. The Sheriff is left to judge, and act at his Peril. If he refuſes to attach or to ſell the Property of a Defendant in Execution, when pointed out to him, and returns the Writ Nulla Bona, he is liable to an Action; if he diſpoſes of that which belongs *not* to the Defendant, he is alſo liable to an Action.

The preſent Caſe is without any Precedent.—Since the Eſtabliſhment of the Supreme Court, no Queſtion has been agitated before it, which could bring the Rights of Zemindars to a Diſcuſſion. Many Suits indeed have been commenced againſt them, but they have always pleaded to the Juriſdiction; and, except when their Cauſe happened to be managed by an unſkilful Attorney, their Plea has always been ſuſtained. They have been conſidered as Landholders, poſſeſſed of extenſive Territories, paying a certain Land Tax or Aſſeſſment to Government. This Exemption of the Zemindars, from the Juriſdiction of the Supreme Court, has ſerved, perhaps more than any other Cauſe, to ſet Limits to the Embarraſſment which the Introduction of an Inſtitution ſo new, and ſo little congenial with the Principles of this Government, was likely to have produced. A powerful Claſs of Men, under whoſe Protection the great Body of the People lived, continued to feel no Superior, but the Company's Government; to know no Laws, but the Uſages and Cuſtoms of this Country; and to preſerve, throughout the interior Part of theſe Provinces, the ancient Modes of Government by which the Revenue is collected, and the Peace and Subordination of Society preſerved.

It appears therefore, that the Zemindars cannot be rendered more independant of the Court, by any Deciſion which may be paſſed regarding them: But a judicial Enquiry into their Rights and

Tenures, whenever it ſhall happen, is likely to have important Conſequences on the Government of this Country. Should it be determined, that a Zemindar is an hereditary Officer, who collects the Revenue in truſt for Government, whoſe Jumma is fixed only to prevent Embezzlement, and who is liable to be removed at Will, it will be argued, and on plauſible Grounds, that every Zemindar is a Servant of the Company, an Officer of Government, and therefore ſubject to the Juriſdiction of the Court. Should it, on the other Hand be decided, that a Zemindar is an abſolute Proprietor of his Zemindarry, in every Inſtance where he is diſpoſſeſſed, he may reclaim his Right thus eſtabliſhed by a Proceſs in the Supreme Court againſt the Company, conteſt the Grounds on which he is excluded from Poſſeſſion, or on which his Land is aſſeſſed; in ſhort, in whatever Way the Queſtion may be decided, it is likely to open a wide Field for Litigation, and ſerve to involve this Government, in Suits brought either directly againſt the Company, or which can be defended only by them and their Officers. As ſoon as the State and Rights of a Zemindar are clearly fixed and explained to the Lawyers in the Court, they will, by Analogy, claſs him with ſome Kind of Tenures in England, and conduct their Suits not according to the Principles of this Government, but by the Authorities and Maxims which the Law of England has laid down with Reſpect to ſuch Tenures.

In conſequence of the Reſolutions and Publication of the Governor General and Council, the Sheriff has declared to the Commiſſioner of Law Suits, that he is ready to conform to the Opinion which the Board has given, to remove his Seals, and to return his Writ againſt the Zemindars of Futty Sing, Nulla Bona, on an Aſſurance from the Board, that they will defend the Suit, which may be brought againſt him in conſequence by the Sheriff; he repreſents the Impoſſibility of his ſupporting the Poſition, that a Zemindarry is not alienable or liable to Sale for the Debts of a Zemindar, without the Aſſiſtance of the Company and their Officers. The Board will pleaſe to conſider whether this Offer of the Sheriff ought to be accepted, and whether or not a Suit which would involve and turn upon ſo important a political Queſtion, muſt be defended by the Company.

The Vakeels of the Zemindars of Futty Sing, in order to prevent the threatened Sale of their Zemindarry, have prevailed on Merchants to lend them Money ſufficient to diſcharge the Judgment againſt them, provided the Board will allow their Conſtituents to give a Mortgage on their Zemindarry for the Loan, to be regiſtered in the Khalſa. The Board will pleaſe to judge, whether the Zemindars may be allowed to grant ſuch a Mortgage.

The Perſon who has obtained the Decree againſt the Zemindars, offers to indemnify the Sheriff, if he will proceed to ſell the Zemindarry. Should the Sheriff, for his own Safety, be obliged to accept of this Offer, the Queſtion as to the Rights of Zemindars, will probably be brought to a ſpeedy Iſſue, becauſe the Purchaſer will immediately endeavour to obtain Poſſeſſion, and if oppoſed, will no doubt procure Warrants, and bring Suits againſt thoſe who oppoſe him. Whereas, if the Zemindarry is not ſold, the Plaintiff will be reduced to the Neceſſity of bringing a Suit againſt the Sheriff; in which, as the Court, where no intentional Error appears, always inclined to the Sheriff, he may find it difficult to ſucceed, and, at any Rate, the Zemindars will probably have found Means to diſcharge the Debt before the Deciſion of the Cauſe. It may be proper to obſerve alſo, that while the Court continue to admit the Plea of Zemindars to the Juriſdiction, no other Caſe is likely ſoon to occur that will force the Queſtion, as to the Tenures of Zemindars, and Rights of this Government over them, to a Deciſion.

The Importance of the Subject will perhaps ſerve to juſtify the Commiſſioner of Law Suits in having thus treſpaſſed on the Indulgence of the Board.

Calcutta, (Signed) George Bogle,
the 12th November 1778. Commiſſioner of Law Suits.

Governor General,

After a very mature Conſideration of the Subject, I am of Opinion, that the Expedient offered by the Commiſſioner of Law Suits, to indemnify the Sheriff from the Conſequences of any Suit brought againſt him by the Plaintiff, for conforming to the Opinion of the Board, is the moſt eligible that can be choſen in the preſent Caſe: It may ſtop this Affair from proceeding further, and by its Influence ſerve in the Place of a Precedent that may deter others from ſimilar Claims. But if it ſhould draw a Proſecution on the Sheriff, and of Courſe bring the general Queſtion before the Court, it will introduce it at a Period the moſt favourable for the Defence of it, as the Parties in the Cauſe will only be the Sheriff and the Plaintiff in the preſent Cauſe; whereas, if brought on after the Sale of the Zemindarry actually made, it may produce a Contention between the Government itſelf and the Supreme Court, for their reſpective Rights, beſides many dangerous Conſequences in the Attempt of the Sheriff's Officer to give the Purchaſer of the Zemindarry Poſſeſſion. For theſe Reaſons I move, that the Commiſſioner of Law Suits be directed to aſſure the Sheriff, that "if in Conformity to the "Opinion which the Board has given in their late Publication, he will remove his Seals, and return "his Writ againſt the Zemindars of Futty Sing, Nulla Bona, they will defend the Suit which may "be brought againſt him in conſequence by the Sheriff."

As it may appear extraordinary to the Board, that the Sale, which according to the Advertiſement ought to have been made on the 4th Inſtant, remains to this ſuſpended, it is neceſſary that I ſhould acquaint the Board that I applied perſonally to the Sheriff to defer the Sale, until the Application directed by the Board could be made to the Judges, and obtained his Conſent thereto;—why it has been ſince delayed, I am not informed.

Mr. Wheler.
I agree to the Motion.

Mr. Francis.
I acquieſce.

Reſolved,
That the Commiſſioner of Law Suits be directed to aſſure the Sheriff, that if in Conformity to the Opinion which the Board has given in their late Publication, he will remove his Seals, and return his Writ againſt the Zemindars of Futty Sing, Nulla Bona, they will defend the Suit which may be brought againſt him in conſequence by the Plaintiff.

GENERAL APPENDIX, Nº 13.

To the Honourable the Court of Directors for Affairs of the United Company of Merchants of England trading to the Eaſt Indies.

Honourable Sirs,

Par. 1. A LATE Event having made it neceſſary that we ſhould, for the moſt preſſing and momentous Purpoſes, take that ſtrong and decided Line with the Supreme Court of Judicature, for which we can perhaps more eaſily find a Juſtification in the Peculiarity of the Circumſtances which occaſioned it, than a Precedent, we judge it right that a ſeparate Addreſs upon the Subject ſhould accompany our general Letter by theſe Diſpatches. You have already before you, upon ſome of our former Proceedings, Matter more than ſufficient to poſſeſs you of the unexampled Footing upon which the Adminiſtration of Juſtice ſtands in this Settlement.—It is with undiſſembled Concern that we now find ourſelves compelled to add thereto, a Repreſentation of the new and diſtreſſing Difficulties in which the reiterated Efforts of the Supreme Court, to eſtabliſh a Juriſdiction co-extenſive with the Authority of your Government in this Country, have involved, and daily involve us; a Juriſdiction which, if admitted, we do not heſitate to ſay, were, in its Exerciſe, as ſubverſive of the Peace of theſe Provinces, and in that Degree injurious to your Intereſts, as it appears to be prepoſterous in its Principle, unneceſſary to the End for which we conceive the Judicature was inſtituted, and unauthorized by the Statute that creates it.

2. However ill adopted to this Country, and the Temper of its Inhabitants, the Conſtitution of that Court in its preſent Form, and the defective Proviſions of it, might, after ſome Experience, have appeared to be; however evident it might have alſo been, that ſome Parts of it had originated in an injurious Miſconception of the Principles and Practices of thoſe who compoſe this Community; ſtill it came from an Authority which ſecured to it the chearful Submiſſion of every Claſs: And as the Act under which it exiſted, had in its earlieſt Stage been profeſſed to have been but an Experiment; and as ſoon as Experience ſhould evince the Neceſſity of Amendment, as that Amendment had been promiſed, the Minds of many were quieted, who from a long and intimate Knowledge of this Scene, though they clearly foreſaw almoſt every Miſchief that has enſued, ſtill under ſuch Aſſurance, looked for a Redreſs upon the firſt Repreſentation that ſhould be ſent Home, either by thoſe in Authority, or from the general Voice of thoſe who were moſt concerned to obtain it.

3. The Evils of which we have already complained, with thoſe which from the Ground of this Repreſentation, with great Reluctance we ſay it, have their Origin, not ſo much in the known, acknowledged, and indiſputable Powers of the Court, ſuch as they appear to be, as in thoſe which upon its own Conſtruction it has aſſumed.

4. Among the latter is that, in the Exerciſe of which we have recently found ourſelves compelled to reſtrain it; and if in ſo doing, or by the Mode in which it has been done, or the Means we have employed for the Purpoſe, we ſhall have incurred your Diſpleaſure, or the Diſapprobation of His Majeſty's Miniſters, we ſhall find our Acquittal with ourſelves in the confirmed Opinion, that if fettered by Forms, which can only be obſerved in quiet Times and ſettled Governments, we had ſuffered the Miſchief to run its Length, or had waited for a regular Remedy from Home, till the Situation of Public Affairs ſhould leave the Legiſlature Leiſure to look to us, we ſhould have ſeen the higher Claſſes of the Natives totally alienated, your Revenue, running faſt to Ruin, all Idea of a Power in your Government to protect them, utterly annihilated among the People, with every Conſequence to the Nation's Intereſts that may be expected to reſult from ſo alarming a State of Things.

5. To avert the menaced Miſchief, you will learn, from our Procceedings in the Caſe of the Rajah of Coſſijurah, to the Whole of which we moſt earneſtly call your cool and diſpaſſionate Attention, that upon Deliberation as anxious as the Subject was novel and important, we have, with an Unanimity not uſual among us, employed the Means that were in our Hands. You will alſo ſee, that with a becoming Moderation we have barely proportioned the Exertion to the Exigency; and that having repreſſed the inſtant Evil, at that Point we have ſtopped.

6. And that we may not appear to have acted unadviſedly and with Precipitation, in a Matter which required the moſt wary Circumſpection, we have to add, that in all the leading Parts of this Tranſaction, we have been directed by the Opinion of the Law Officer, whom you have appointed to adviſe us in Matters of legal Difficulty; and that in thoſe ſubſequent Meaſures, which an Adherence to his Opinion, and the Neceſſity of our Situation, rendered unavoidable, his entire Approbation has followed.

7. With a juſt Diffidence in our own Judgement upon Matters that lay beyond our Province, we had implicitly acquieſced, even to the End of the Term to which our firſt Authority was limited, in the Idea which the Judges have held out to us of the Plenitude of their Powers, and the Extent of their Juriſdiction. We ſaw no Motive for their miſleading us; and though we felt preſent Embarraſſment to ourſelves, and perceived the approaching Decline of your Affairs in the Admiſſion of their Claims, we were willing to trace them rather to a Defect in the Charter, than to a wilful Abuſe of its Powers.

8. We have patiently waited the Reſult of the Repreſentations from us to you, and from you to the King's Miniſters, upon this Subject; though the long Interval through which we have, with continued Hope, looked forward to a new Syſtem, or a Correction of the old, has been marked with increaſing Difficulties to us, and intolerable Oppreſſion to the Natives, from the ſteady, undeviating Courſe, which the Judges hold in all Matters that reſpect what they are pleaſed to call their legal Authority.

9. And here we muſt be allowed to ſay, that an accommodating Spirit, and a conceding Benignity, on their Part, not incompatible perhaps with the Firmneſs of public Juſtice, might have given Facility to the Buſineſs of either Department. Your Government might then have retained the Reſpect that belonged to it, without which it exiſts to little Purpoſe; and our Laws, if ſuch an Effect was intended, have imperceptibly taken Rout.—At preſent, with Pain we ſay it, the One is cramped and enfeebled, and the other become the Object of univerſal Conſternation.

10. That Examples may not be wanting of either, we ſhall ſelect, from the many that preſent themſelves, Two recent Aſſertions of their Authority, in Caſes to which we conceive it never could have been the Intention of the Legiſlature that their Juriſdiction ſhould extend.

11. We have ſeen with Aſtoniſhment, Proceſs of Contempt ordered in One Inſtance, and Civil Proceſs iſſue in another, againſt the Naib Nazim of theſe Provinces reſiding at Moorſhedabad, the Seat of the Country Government; the former for not having made a Return to a Writ of Habeas Corpus, commanding him to ſend up certain Perſons whom he had cauſed to be apprehended upon a charge of Forgery, but whom, before their Guilt or Innocence could be aſcertained, he had, from Motive of Reſpect to the Supreme Court, ſent to give Evidence in a Cauſe then depending before it; and having in order to bring the Proceſs to a Concluſion, again ſeized them upon their Return to Moorſhedabad, ſuch Aſſertion of an Authority inherent in his Office, was declared by the Court to be a Violation of that Protection to which a Witneſs is entitled eundo et redeundo; and the Naib Nazim having made no Return to the Writ of Habeas Corpus, which had iſſued upon the Occaſion, an Attachment was immediately ordered againſt him, as for a Contempt.

12. The Civil Proceſs had iſſued, we ſuppoſe, upon the uſual Affidavit of a Debt; the Affidavit ſtating him to be ſubject to the Juriſdiction, and alſo under what Deſcription he was ſo. It were, however, well worth the Conſideration of the Judge who ſigned it, and who could not be ignorant of the Character which the Defendant filled, to what Difficulties a ſtubborn and unbending Adherence to

a Rule of Practice, which appears to have been upon ſlender Experience unadviſedly framed, might in this Inſtance have ſubjected both Branches of Adminiſtration.

13. We have to lament, indeed, that in few, if any Inſtances, the Judges have appeared ſolicitous to adapt the Practice to the Place; or ſeem aware of the Conſideration, that, though under an ancient, well-eſtabliſhed Conſtitution, which has advanced to Perfection through the Wiſdom and Experience of Ages, the Laws will execute themſelves, and the Stream of public Juſtice finds its Channel; yet, in a Situation ſuch as they act in, Caſes muſt often occur, to which, if they attempt to apply the Proviſions of Foreign Law, no Force or Management can regulate its Courſe.

14. We are not ignorant upon what unequal Terms we encounter in this Matter, the ſuperior Learning of the Judges. Guided, however, in common with them, by the Light of Reaſon, and inſtructed, in ſome Degree, by the very Conteſts in which we have been occaſionally engaged with the Court, with all Humility we conceive, that, under the peculiar Circumſtances of this Caſe, a Foreign Plea, which either alledges that the Matter ought to be tried in another Court, or elſe rejects the Judge as incompetent, for that the Matter in Queſtion is not within the Juriſdiction, were hardly adviſeable; and for this Reaſon:

15. If the Naib Nazim pleads to the Juriſdiction, he muſt at the ſame Time give Juriſdiction to ſome other Court; inaſmuch as, to whatever the Plea goes, it always pre-ſuppoſes and admits the Party to be ſubject to ſome Juriſdiction, and bound by the Law of the Land in its fulleſt Operations; but in the preſent Caſe, the Party not owing Allegiance to the King, nor Obedience to his Laws, having been born and educated, and now living, and having always lived, out of his Protection; deriving no Benefit or Security whatever, in Life or Member, in Fame, Liberty, or Fortune, from the Adminiſtration of Juſtice under the Authority of thoſe Laws; and not having therefore the common Conſideration for which Men, at the Firſt Formation of Society, ſurrendered thoſe Portions of their natural Liberty, the Aggregate of which conſtitutes the Authority of the State; he claims, we conceive, of Right, as thorough an Exemption from the Controul of our Laws, as Nature has given him an Alienage from us in Blood, Temper, and Complexion.

16. But though theſe Grounds were not tenable, the Rules of Practice ſeem themſelves to furniſh Reaſons why, in the Nabob's Situation, a Plea to the Juriſdiction ſhould be declined, as dangerous and deluſive.—To plead, he muſt appear: The Appearance would amount to an Admiſſion of a Power in a Court to compel it; and the pleading pre-ſuppoſes a Right to admit or over-rule the Plea; and thus at once decide upon his Rights, and its own Juriſdiction. A Circumſtance which, to our Comprehenſion, ſeems to counteract, in no ſmall Degree, the Firſt Principle of diſtributive Juſtice, which excludes Paſſion, no leſs than Intereſt, from the Seat of Judgment; the more eſpecially as, there being no preſent Controul, or other Remedy than a remote Reviſion in Appeal, it may thus indirectly effectuate that, againſt which, though the Statute has poſitively provided, the Judges have, with vehement and unremitting Effort, from the very Commencement of their Power, laboured to eſtabliſh—the indiſcriminate Subjection of the People of theſe Provinces, to the Authority of the Supreme Court.

17. Indeed, in the Caſe upon which we dwell thus long, the whole Way ſeems to be ſtrewed with Difficulties, ſuch as Wiſdom would avoid; for the Rules of Practice requiring that every Plea in Abatement ſhould be verified in Subſtance by the Oath of the Party, the Naib Naizim muſt, to have his Plea received, make Oath, that he is not within the Juriſdiction of the Court, not receiving any Stipend from the Company, nor being directly nor indirectly in its Employ.

18. Thus circumſtanced, to whatever Side he turns he has croſs Penalties to encounter. Does he diſobey the Summons, a Capias and Sequeſtration follow. Does he appear and plead to the Juriſdiction, tho' the Plea is received and held good, the Oath diſhonours him, and brings his Authority, and that of the Country Government, into Diſcredit and Contempt with his People; and, finally, ſhould it be over-ruled, an Indictment for Perjury may be preferred; upon which, if convicted, the Pain and Ignominy of the Puniſhment are ſuch, that, to a Man, who ſtands upon the Eminence in Point of Station that he does, Death compared to it were Mercy.

19. And here it is worth Attention, that in him, upon whom, from ſo unlooked for a Source, and for ſo trivial a Cauſe, this Complication of Diſhonour and Diſtreſs might have fallen, reſides the whole executive Power of the Country Government; that he is alſo the chief Magiſtrate of Criminal Juriſdiction throughout the Provinces whoſe Powers, tho' the Legiſlature was apprized of them, the Statute has not abridged, and which, by being thus tolerated, we apprehend are legalized; to which we may add, that in his Juriſdiction in Matters of criminal Cogniſance the Judges have not only at all Times acquieſced, but in a particular Inſtance have actually reſorted to it in Aid and Exoneration of themſelves;—that repreſenting, as he does, what remains of the Majeſty of the Empire in theſe Subahs, and the Exerciſe of his Authority being the only preſent Means of preſerving Peace and Order throughout the Country, it ſhould, in common Policy,

till ſome Subſtitute is provided, be permitted, we think, to remain in all poſſible Vigour and Reſpect.

20. The Allowance of this Plea to the Juriſdiction was early introduced by the Court, and a Rule formed, which under the Profeſſion of Moderation, and a Deſire to accommodate the Exerciſe of its Authority to the preſcribed Limits of the Charter, operated, as we believe, by its Influence on the natural Apprehenſions of thoſe for whoſe Behalf it was intended, and yet more on the Intereſts of thoſe who might feel their Practice diminiſhed by ſuch a Limitation, to defeat the End of it.—The Rule to which we allude, was a Declaration in Form, that a Plea to the Juriſdiction ſhould not deprive the Party who made it, of his Right of pleading to the Action *; although this was an Indulgence which it was ſaid would give much Trouble to the Court, and was not allowed in any of the Courts of Law in England, in which † ſuch Pleas to their Rights were little favoured. "Intimations of this Kind, and the obvious Application of them to the Jealouſy which all Men feel for their own Power and Conſequence, ſerved rather to intimidate than encourage the Uſe of ſuch Pleas, as the ‡ Peril" of making them ſtill remained in one Senſe.—Still, however, there were found Perſons who would venture to make them; but to this Hour, it has not come to our Knowledge that they were brought to Trial. It is true, that the Senſe of the Court reſpecting the Exemption of one certain Claſs of Men from its Juriſdiction, has been frequently declared in looſe and extrajudicial Intimations; and perhaps we may aſcribe to theſe very Intimations, that the Right itſelf has never yet been brought to a Deciſion; for we believe, that in every Inſtance in which it has been made, the Plaintiff has been aviſed by his Attorney to drop the Suit. The Defendant's Attorney having a common and profeſſional Intereſt to prevent the Deciſion, which would eſtabliſh a Precedent to Diſadvantage, has acquieſced; and his Client, glad at any Rate to be freed from the Vexations and Expences already incurred, has ſubmitted to the Deception, and returned to his own Houſe; whence, after a ſhort Interval of Quiet, he has been again dragged by a new Writ to Calcutta, to go thro' the ſame Proceſs, with the ſame Termination; and this perhaps, repeated till he has purchaſed the Forbearance of his Proſecutor. Leſt you ſhould ſuſpect this Picture to be overcharged, we beg leave to refer you to the Caſe of the Zemindar of Powa Colly, as it is ſtated in our Conſultation of the 21ſt December 1779, in which you will ſee it accurately verified.

21. Thus the Practice itſelf, and the Rule inſtituted for the profeſſed Purpoſe of facilitating its Operation, tho' they ſerve to give a Colour of Juſtice and Lenity to the Uſurpation, are in Effect but the Inſtruments of extending the Powers of the Court beyond the Bounds preſcribed to them by the Act of Parliament and Charter of Juſtice, and of imperceptibly drawing every Claſs and Character of the People of theſe Provinces within the Sphere of its Attraction.

22. While we were only the Spectators of the Proceſs of the Court in the Exerciſe of theſe Encroachments, and no Occaſion had yet happened which compelled us to be Parties to it, by employing the Aid of Government on either Side, whether for its Support, or for the Maintenance of the legal Rights of the Government, and the Intereſts of which the ſame Power from which the Judges derived their Authority had made us the Guardians, it never occurred to us to examine the Principles on which it was founded. We ſaw it eſtabliſhed by an Authority which we reſpected, and we gave it implicit Credit. Even the technical Term by which it was expreſſed helped to deceive us. We knew, or were informed, that it was of familiar Uſage in the Courts of Law in England: We concluded it to be eſtabliſhed on ſome general Maxim of the Law, and to be the ſame in its Acceptation here as in England.

23. We knew not indeed in what Way to reconcile a temporary Juriſdiction by Law over Perſons, whom the Law declared to be wholly exempt from it; but were told, that the allowed Juriſdiction could not be effectual without it; ſince, if the Act of Parliament was to be taken in its literal Conſtruction, and the Court were not allowed to exerciſe Juriſdiction, but over thoſe whoſe Subjection to it had been previouſly aſcertained, it could exerciſe Juriſdiction over none; becauſe, unleſs it could compel Perſons, who were affirmed to be Objects of its Juriſdiction, to appear before it, the Queſtion of their Subjection to it, or of their Exemption from it, could not be previouſly aſcertained; and the Act itſelf, which gave them Juriſdiction in certain Caſes, and over certain Characters, would be nugatory.—The Conſequence ſeemed to be fairly drawn; and our Records, in various Inſtances, will ſhew, that, whatever Doubts we may have ſecretly entertained of the Right deduced from it, we never ventured to diſpute it. But the late Occurrences have called upon us to examine the Queſtion, and at the ſame Time brought it cloſer to our View. And the following is the Reſult of our Obſervations.

24. In the firſt Place, we underſtand, that there is a wide and eſſential Difference between the Nature of Pleas to the Juriſdiction of the Courts of Law in England, and of that eſtabliſhed here:

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* See the Chief Juſtice's Opinion in the Cauſe of Nadarah Begum. † Ditto. ‡ Ditto.

The Deſign of the former being to mark the Lines of Separation between the different Courts, adminiſtring the ſame Law to the ſame People; and of the latter, to releaſe from the Juriſdiction of the Supreme Court, Perſons over whom it has no legal Rights of Juriſdiction; who are Strangers to the Law which it adminiſters; and are defined by the Act under which it is conſtituted, to be a different People, and Aliens from the Government of England.

25. We underſtand, that the Powers of each Court in England are clearly defined, by long and uninterrupted Uſage, and are circumſcribed by known and ſtated Laws; and that it is a ſettled Maxim, that nothing ſhall be intended within their Juriſdiction, that is not expreſsly alledged to be ſo. But we have carefully ſearched both the Act of Parliament and Charter from which the Supreme Court derives all its Powers, for the Authority which it claims, and the Proceſs by which that is exerciſed, without Succeſs. Of the latter, we find not the fainteſt Trace; and the former is precluded, and declared to be illegal by the expreſs Limitation of it.

26. We have alſo underſtood it to be one Maxim of univerſal Juſtice, that no Law can be binding, which is not rendered ſuch either by long and acknowledged Uſage, or by expreſs Promulgation; and another, that every Law ſhall be interpreted by the plain and literal Conſtruction of the Words in which it is declared. The Supreme Court is itſelf of too recent an Inſtitution, to claim the Sanction of Uſage, for any Practice which it hath either conſtituted or permitted: we know no expreſs Law, which it conveys to it; the Rights in queſtion, and the plain and literal Conſtruction of the only Law under which it acts, is a direct Prohibition of it.—Wherefore, we conceive ourſelves to be warranted in declaring every Oppoſition to the Court, in the Attempt to ſtretch its Powers beyond their legal Bound, to be in itſelf legal, and in the Relation in which we ſtand to this Government, an indiſpenſible Duty; as that Attempt is in the Authors of it illegal, and a Departure from their Duty.

27. With reſpect to the Right of the Court, derived from the Neceſſity of a temporary Juriſdiction over Perſons whom the Law has excluded from it, we preſume to doubt both the Neceſſity and the Right dependant on it. If, inſtead of receiving the ready Affidavits, declaring Perſons to be Objects to their Juriſdiction, the Judges had made it their Practice to examine the Grounds of ſuch Declarations, it would have been eaſy for them, in any Caſe, to have aſcertained, whether or not they were conformable to the Senſe of the Charter; or if a Doubt had ſtill remained in their Minds, it might eaſily have been reſolved by an Application to us, to be informed whether the Defendant, in any particular Action, was or was not in our Employ. To this, and to other Expedients, which farther Conſideration might have ſuggeſted, we are unable to imagine an Objection, independent of the Forms of the Court, which we do not pretend to underſtand, but which we know are regulated, qualified, and altered, at the Diſcretion of the Judges, for the Purpoſe of real Information to the Court; we ſay, without Reſerve, that a Declaration, ſigned by us on the Point now in queſtion, is much better Evidence than many, we might, perhaps, ſafely ſay, than the greater Part of the Affidavits on which the Proceſs of the Court has been iſſued. After ſuch Precautions, every Perſon reſiſting their Proceſs would have reſiſted it at his Peril, and the Aid of Government would always have been ready to enforce it. Our invariable Conduct to this Time, unleſs the late Affair at Coſſijurah may be quoted as an Exception, is the ſtrongeſt Evidence that this is not a mere Profeſſion. Their Writs have been univerſally reſpected, and in ſome Places where even our Orders have been diſputed.

28. There is no Truth ſo evident, as not to be perplexed by technical Diſtinctions; we are not bound, nor might it be poſſible for us, to reſolve every Difficulty which thoſe Diſtinctions have created. It is ſufficient for us, that by the Act of Parliament, certain Claſſes of Men in this Country are moſt expreſsly, and as we underſtand, avowedly exempted from the Juriſdiction of the Supreme Court, to all Intents and Purpoſes. If Perſons ſo exempted, muſt nevertheleſs obey the Proceſs of the Court; if by not obeying it, they become lawfully ſubject to Sequeſtration of their Property, to Fine and Impriſonment, and in ſhort, to all the Penalties uſually inflicted for Contempt of a lawful Juriſdiction; or, if in Obedience to ſuch Proceſs, a Zemindar, for Example, who lives 400 Miles from Calcutta, ſhall be dragged hither by the Sheriff's Officers, ſhall be forced to appear before the Court, and wait in Calcutta, and moſt probably in Jail (ſince in no Caſe will Bail be found for Debts, ſtated for Lacks of Rupees) until his Plea to their Juriſdiction ſhall be determined, which may be many Months, in what Senſe are we to underſtand the Force and Authority *thus far* exerciſed over him, if the Judges ſhould at laſt decide, that he is not ſubject to their Juriſdiction? Is it Juriſdiction, or is it merely an Act of Power againſt which no Right can protect him? Under the Operation of ſuch Power, whether lawful or not, we are ſure that the Zemindar gains nothing by the Exemption finally acknowledged to be his Right. Of that Claſs of Men, we are perfectly convinced that a very great Majority would be ruined by the Steps preſcribed to them, in order to eſtabliſh it; We will here add what would have been the Conſequences, had not the Government interfered in Support of the Rajah of Coſſijurah. It is almoſt morally certain, that no Perſons of ſufficient Reſponſibility could have been found to have been Bail to the Action in ſo enormous a Sum as Sicca Rupees 3,00,000. The Rajah muſt therefore have remained a Priſoner in the Jail of Calcutta, till a Deciſion had taken Place on his Plea. It is moſt probable, that the Period of his Confinement would not have been leſs than Twelve

Months, as the Plaintiff, doubtful of eſtabliſhing the Defendant to be an Object of the Juriſdiction of the Court, would have uſed every Means to protract the Suit, in hopes, that the Sufferings of the Rajah in his Perſon, as well as his Property, would compel him to make Overtures of Accommodation; and in all this Time, his Zemindarry would have remained in a State of Anarchy, and the Collections been either wholly neglected or embezzled; or, to prevent theſe Conſequences in part, for the Remedy would only be partial, the Rajah muſt have been wholly diſpoſſeſſed, and ſuffer an accumulated Injury from the neceſſary Effect of that in which the Act of the Court had already involved him: And this again would have encreaſed the former; for, as a new Authority would have been eſtabliſhed in his Country, he would not only have undergone temporary Deprivation, but have been precluded from all Hopes of recovering, either his Inheritance or Liberty, by the Loſs of the only Means which he could have of diſcharging the Debt.

29. To thoſe who are acquainted with this Country, and the Character of its Natives, it is well known, that among the ſtubborn and immutable Uſages of a People, who, by an unheard of Policy, are thus attempted to be dragged within the Pale of our Laws, there are not any that are ſo intimately blended with their Natures, ſo interwoven with their very Exiſtence, and a Force upon which were therefore ſo likely to drive them to Deſperation, as thoſe which regard their Women; a Reaſon, for which, we preſume you will think with us, that Policy and Humanity ſhould in all Situations reſpect them.

30. And yet with equal Wonder and Alarm, we have recently ſeen the mandatory Proceſs of the Court directed to a Woman of the higheſt Caſt and Rank (the Rannee of Rajeſhahee) who poſſeſſes in her own Right, the Firſt great Zemindarry of theſe Provinces. You will permit us to draw your Attention for a Moment to the certain Conſequences of this Proceeding, if that Management had not been employed to avoid them; which we cannot hope will always ſucceed.

31. Secluded as Women of her ſuperior Rank are, and equally ignorant of the Language and Purpoſe of the Proceſs, it were to a Certainty diſobeyed. The Court adhering to its Rules, a Capias follows, the Execution of which is probably committed (as in the Caſe that occaſions this Repreſentation) to a Band of armed Ruffians; her Houſe is pillaged, her Temples polluted, the moſt ſecret Receſſes of her Family violated, and that Sanctity of Character trampled upon, which throughout the Eaſt, even in Times of fierceſt Hoſtility, the moſt barbarous Nations revere in Women.

32. Happily in this Caſe theſe Things have not all occured; but as the indeliable Diſhonour of a public Expoſure, and that inexpiable Pollution from the inſufferable Senſe of which, according to their Mode of thinking, there is no Refuge but in Death, would have followed, if the Plaintiff had not been perſuaded to withdraw his Action. We ſtate this as another of thoſe Caſes, to which we are confident, that a feeling and enlightened Nation could never have intended to ſtretch the Authority of its Laws.

33. If in either of the preceding Caſes it ſhall neverthelefs be decided by the Authority to which we appeal, that the Court has acted only in Conformity to the Powers with which it is conſtitutionally armed, we ſhall readily retract. As Circumſtances however occur in the one, which perplex the Underſtanding, and in the other, ſome that reach the Heart, we ſhall be allowed to ſay, in our own Juſtification, that miſled by the Opinion we entertained of the ſuperior Wiſdom and Liberality of our Laws, we have only miſſed our Way upon an untrodden Ground.

34 We are aware it may be ſaid, That the Judge of a Court of Law is not bound to attend either to the Policy or Compaſſion of the Caſe; that the Rules of Practice can neither ſhift, fluctuate, nor bend to Occaſion, but are fixed, uniform, and invariable; that the Court, bound by its own Forms, can receive nothing but in the Manner preſcribed by thoſe Forms; that were it to take in one Inſtance a Claim to an Exemption from its Juriſdiction, upon the bare Suggeſtion of the Party, and without a Plea upon Oath, which the preſent Practice requires, the ſame Claim may as well be ſet up in a 2d, 3d, and 4th Caſe, and ſo on, ad infinitum, and the ſame Mode of receiving it expected and inſiſted upon; and thus the Barrier being once broken down, all Pretenſions to Syſtem would vaniſh, and Anarchy enſue.

35. Such Reaſoning, we admit, did the Practice but correſpond therewith, were not eaſily overſet: Little verſed, however, as we are in legal Diſcuſion, we are not ignorant, that next to the Integrity and Learning of its Judges, Uniformity in its Deciſion, and Conſiſtency in the Application of its Rules of Practice, were the beſt Title that the Court can urge to our Confidence and Reſpect.

36. We will not now dwell upon the Multitude of Caſes we are poſſeſſed of, in which the Judges ſeem not only to have loſt Sight of their own Rules of Practice, but in which, upon a Principle that is unknown at Home, every Deviation evidently tends rather to the Extenſion and Eſtabliſhment of their own Authority, than to the Eaſe and Accommodation of the People. At preſent we confine ourſelves merely to the Conduct they have purſued upon the Occaſion which has ſuggeſtd to us the Neceſſity of this Addreſs.

37. In the Earneſtneſs of our Wiſh to avoid all Poſſibility of interfering with the juſt Powers of the Court, and by Diſunion, obſtructing the great Ends of our reſpective Appointments; ſoon after the Judges had proclaimed their Commiſſion we applied to them for a Solution of certain Doubts which ſtruck us, with reſpect to the Subjection of different Claſſes of the Natives to their Authority.

38. Our Enquires particularly pointed at the Zemindars of theſe Provinces; and becauſe we clearly foreſaw how deeply your Revenues might be affected, by their being declared to be within the Juriſdiction, we ſo accurately deſcribed them, that a Doubt could not remain of the Relation in which they ſtood to this Government.

39. For our Information and Guidance we were aſſured from the higheſt legal Authority, that a Zemindar, quo ad Zemindar, was not ſubject to the Juriſdiction; and the only Word, in that Opinion, which ſeemed to imply a Reſervation, we underſtood to be meant as an Exception of thoſe Caſes in which a Zemindar might, by his own Act, give the Court a Juriſdiction, which otherwiſe it would not have. And here we muſt obſerve, that in that of the Rajah of Coſſijurah, it is not pretended that he is in the Service of the Company, or of any of His Majeſty's Subjects; or that by the Bond on which this Action is brought, he has waved his Exemption.

40. We are perſuaded you will feel, as we do, the moſt ſerious Alarm for the Peace and Well-being of theſe Provinces, ſo far as they may depend upon the correct Adminiſtration of Juſtice, when we tell you, that in the preſent Caſe the Proceſs, as well mandatory as compulſory, has iſſued upon an Affidavit, ſtating the Defendant of that Deſcription, which according to the public and avowed Opinion of the Judges, places him beyond their Authority.

41. Perhaps you will alſo think with us, that it were nugatory, as well as hopeleſs, to try his Title to an Exemption, by a Plea in Abatement to the Juriſdiction; when, though that Exemption appears already eſtabliſhed upon the very Front of the Caſe, yet Proceſs iſſues upon that ſpecific Authority upon which it ſhould have been refuſed.

42. The Court made an early Rule, that every Perſon applying for a Writ againſt a native Inhabitant of the Provinces, ſhould ſwear, both to his being ſubject to the Juriſdiction, and to the Circumſtances which rendered him ſuch, and that no Writ ſhould be granted without theſe Forms; yet the Affidavit (as you will perceive by a Copy of it on our Proceedings, noticed in the Margin*) took no Notice of the firſt and moſt eſſential Part of this Rule; and notwithſtanding this Defect a Writ was granted upon it.

43. We muſt alſo be permitted to obſerve, that every Argument which ſuſtains the Claim of the Naib Nazim (that excepted which reſults from his Station in the Country Government) cloſely applies to the preſent Caſe, and more eſpecially the Diſtinction we have taken, between the Effect of a Plea to the Juriſdiction as in Uſe, at Home; where, as we have before obſerved, it goes only to the Authority of ſome One Court, by which it is contended that the Cauſe is not cognizable; and here, where it can only mean a Claim of abſolute Exemption from the general Authority of our Laws.

44. When Inſtances frequently occur of the Kind we have laſt ſtated, and they all look one Way, towards eſtabliſhing and giving Root to an Authority beyond that which hath its Foundation in Law, it induces a Suſpicion that there is more in them of Syſtem than Miſtake.—In either, however, we ſee that which tends to deſtroy all Confidence in the Adminiſtration of Juſtice; a Principle perſevered in, which evidently leads to Ruin, or a Want of that Temper and Caution that are inſeparable from the Security which Engliſhmen look for in their Laws.

45. Could any middle Courſe have been purſued, by which the Evil might have been only ſuſpended in its Operation, till the Reſult of our reſpective Repreſentations ſhould be known; we ſhould have ſtopped ſhort of that actual Reſiſtance, in which we are ſenſible that the Minds of many will probably find Matter of Alarm; but the Violence and Precipitation of the Meaſures purſued by the Judicature, have left us without a Choice.

46. However ſimple and circumſcribed the Queſtion of Reſiſtance might have been in its firſt Stage, and however doubtful it might appear whoſe was the Aggreſſion, it has unavoidably branched out into Caſes, which, if conſidered as unconnected with the main Queſtion, involve us in unforeſeen Difficulties, and ſeem to throw the Weight of Argument into the other Scale; for whether the Zemindar of Coſſijurah is or is not ſubject to the Authority of the Court, or whether that Queſtion, under the peculiar Circumſtances of his Situation, ſhould or ſhould not be tried upon a Plea to the Juriſdiction, yet, having once reſorted to Reſiſtance, and the Inſtruments we have employed in defeating the Proceſs of the Court being incontrovertibly within reach of its Arm, it became a Subject of anxious Deliberation with us, how far the Neceſſity of our Situation would warrant the extending our Protection to

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* Vide Conſ. 7th December 1779.

them. Having, however, maturely weighed the Danger of giving at this Criſis ſuch Cauſe of Diſguſt and Diſcontent to your Army as they muſt feel, were our Orders to place them, between the Puniſhment of Diſobedience on one Side, and the Vengance of the Court on the other; and conſidering that an Act lawful ab initio, doth in Law and Reaſon juſtify every Conſequence inſeparable from it, or indiſpenſibly neceſſary to ſupport it, and that otherwiſe no Man could do ſuch lawful Act, if he were liable to fall by the unavoidable Conſequences of it; we have at length reſolved, as an Act at once of Prudence and Juſtice, and alſo in order to impreſs them with that Notion of the Honour and good Faith of Government, which annexes Security to Obedience, to give them effectual Shelter againſt the latter.

47. As in this Meaſure, ſo in ſuch future ones as the unyielding Temper of the Court, its unſeaſonable, and therefore unwiſe adherence to Rules of Practice that are impracticable, and its inadmiſſible Conſtructions of the Statute ſhall impoſe upon us, we ſhall proceed cautiouſly and ſlowly, and we truſt we ſhall ſo conduct ourſelves to the End of this unlooked-for and unhappy Conteſt, that where the Forms of the Conſtitution have been or ſhall be violated, the Miſchief, if any, ſhall be clearly imputable to thoſe only whoſe Conduct has created the Neceſſity.

48. If we comprehend the Principle upon which the judicial Proviſions of the 13th of the King were planned, they were meant to be an Aſylum to the Natives of this Part of India againſt every poſſible Injury and Oppreſſion. How it has happened, that the wiſe and benevolent Purpoſe of Parliament has been defeated, or by what perverſe Conſtruction that Law has become an Injury to a People, to whom it was meant to be a Source of future Peace and Security, and whoſe few remaining Rights, under a liberal and enlightened Application, it might have protected, a ſhort Enquiry will diſcover; but that Enquiry, with the Redreſs it leads to, would, we affirm, arrive too late, had we longer remained inactive Spectators of the Miſchief.

49. If the Defect is in the Conſtitution of the Court, we ſee, that nothing ſhort of the immediate Reviſion and Correction of Parliament can apply a Remedy; and, without meaning Offence or Injury to any, we preſume to add, that if it ſhall appear to have been miſunderſtood or perverted by thoſe to whom the State has committed the Execution of its Powers, the Conſequences which may affect them, either in their Honour or their Fortunes, and in which we would not have it thought that we ſhall find any Gratification, were Conſiderations too trivial to occaſion a Moment's Pauſe, when weighed againſt the Importance to Great Britain of this Country, and the Peace and Security of Ten Millions of its Inhabitants.

50. For ourſelves we will only ſay, that the evident Neceſſity for Union at a Time when the Britiſh Empire is convulſed to its very Centre, our extreme Unwillingneſs at ſuch a Seaſon to add to the Embarraſſments at Home, and the Reverence which as Engliſhmen we cannot but feel for our Laws, however miſconſtrued and miſapplied, would have influenced us to wait with chearful Reſignation the Event of a new Appeal to our Superiors, did we not ſee the imminent Hazard of all that has been confided to us, either in Acquieſence or Delay.

We are, with great Reſpect,
Fort William,
Honourable Sirs,
the 25th January 1780.
Your moſt faithful humble Servants,
Warren Haſtings.
P. Francis.
Edwd Wheler.

Poſtſcript.

In Addition to what we have already communicated to you by theſe Diſpatches, we muſt here acquaint you, that by a Letter which we have only this Inſtant received from the Company's Attorney, Copy of which is herewith conveyed to you, we learn that a Rule has iſſued from the Supreme Court, to ſhew Cauſe why the Rajah of Dinagepore ſhould not be attached.

W. H.
P. F.
E. W.

Fort William,
the 27th January 1780.

GENERAL APPENDIX, N° 14.

To the Honourable Warren Haſtings, Eſq; Governor General, and Council of Revenue, Fort William.

Honourable Sir and Sirs,

WE have the Honour to tranſmit you herewith, a Copy of a Writ iſſued by the Supreme Court of Judicature, which has been forwarded to us by Mr. Lodge, Reſident at Bullua.—Without the Knowledge of Mr. Lodge, an European Serjeant ejected the Poſſeſſors of the Lands, ſtyled Henry Robinſon in the Writ, and gave Poſſeſſion to John Doe, viz. Ajoodaram, though the former held them upon a Decree paſt in the Adaulut againſt Chundermoney and Sherbiſſur, from whom John Doe, as appears by the Writ, derives his Title. For your Information we think it neceſſary to adviſe you of this Circumſtance, and beg Leave to requeſt your Directions upon it.

We have the Honour to be, &c.
Signed, Wm. Hollond,
and Council.

Dacca,
5th October, 1779.

Fort William in Bengal. } George the Third by the Grace of God of Great Britain, France, and Ireland, King, Defender of the Faith and ſo forth, to the Sheriff of Calcutta, at Fort William in Bengal, greeting: Whereas John Doe, lately in Our Supreme Court of Judicature, at Fort William in Bengal, before Our Juſtices of the ſaid Court, by the Judgment of the ſaid Court recovered his Sum, yet to come of and into One Piece or Parcel of Ground with the Appurtenances, containing Four hundred and Seventy-four Begahs, at the Village of Palparrah Subpore, in the Pergunnah Bulluah and Province of Bengal, againſt Henry Robinſon, which Surbiſſer Chundermonnee, on the Firſt Day of January, in the Year of our Lord Chriſt One thouſand Seven hundred and Seventy-nine, demiſed to the ſaid John Doe, to hold and enjoy to the ſaid John Doe and his Aſſigns from the ſaid Firſt Day of January laſt paſt until the full End and Term of Seven Years next enſuing, and fully to be compleat and ended, which is not yet expired; and whereupon the ſaid Henry Robinſon put out and amoved the ſaid John Doe from his Poſſeſſion, and ejected him from the ſaid Farm: Therefore We command you that you cauſe the ſaid John Doe to have his Poſſeſſion of his ſaid Term yet to come, of and in the Tenements aforeſaid, with the Appurtenances. And how you ſhall execute this Our Precept make appear to Our Juſtices of the ſaid Supreme Court, on Friday the 22d of October next, and have there and then this Writ.—Witneſs, Sir Elijah Impey, Knight, at Fort William aforeſaid, the 12th of July, in the Year of our Lord Chriſt 1779.

(Signed) A. Fraſer,
Sealer,
(Signed) Tolfrey, Atty.

(Signed) Rd Litchfield,
Prothonotary.

13th Auguſt 1779.

A true Copy.
(Signed) C. Burrowes,
Secy.

Honourable Sir and Sirs,

On the 5th Ultimo we adviſed you of the Seizure of a Talook in the Bellua Pergunnah, by a Writ of the Supreme Court.—The Chief having on his Return thought it expedient to propoſe a Meaſure for preventing the Operation of the Writ, until your Orders can be received; we have adopted the ſame, and now beg Leave to lay it before you in the accompanying Extract of our Proceedings.

We have the Honour be, &c.
(Signed) J Shakeſpear,
and Council.

Dacca,
12th November 1779.

Extract of the Proceedings of the Provincial Council of Revenue at Dacca, dated the 12th of November 1779.

The Chief records the following Minute.

" On peruſing the Proceedings of the Council held in my Abſence, I find on the 5th of October " a Letter from Mr. Lodge, reporting the actual Seizure of a Talook in the Bullua Pergunnah, " by an European Serjeant, under a Writ from the Supreme Court of Judicature.

“ I am of Opinion, that the Board ſhould not have contented themſelves with merely adviſing the Governor General and Council of the Circumſtance; but that ſome Meaſure ſhould have been inſtantly adopted to prevent the Operation of a Power which I conceive to have been unconſtitutionally exerted. I can hardly indeed eſteem this an Act of any one of the Honourable Judges, but rather apprehend it to be the Trick of ſome Lawyer, who has hurried through the Papers in the Courſe of official Buſineſs, without advertiſing the Honourable Judge who directed the Writ, of its real Intent; however that may be, I ſhall never acquieſce in the Exerciſe of an Authority which, to my Apprehenſion, goes to the immediate Abolition of the legal Powers of the Government; and it muſt be the expreſs Declaration of the Honourable Governor General and Council alone, which can convince me that ſuch Rights are veſted in the Court. To-day, if the Seizure and Diſpoſal of a ſmall Talook ſhall be paſſed over, the ſame Authority may To-morrow diſpoſſeſs a principal Zemindar, and in ſhort the whole Property of the Country be changed; a Power the Legiſlature have certainly not placed in the Hands of the Supreme Court.

“ Under the Orders we act, in reſpect to the Supreme Court, I know not how far we may be maintained in a direct Oppoſition to the Writ: I therefore propoſe the following Meaſure, which will at leaſt prevent its Operation to the Prejudice of the Revenue, until the Honourable Governor General and Council's Orders ſhall arrive.

“ That a Sezawul be appointed for the Collections of Patparrah Talook, with Directions to pay the ſame into the Ballua Cutcherry, and that a Publication be iſſued prohibiting the Ryots, &c. under the ſaid Talooks, from paying their Rents to any Perſon whatever but the Sezawul ſo appointed, their Lands to be held anſwerable for ſuch Rent, and no Abatement to be allowed for Payments made to any Perſon whatever, not regularly authorized to collect the ſame by the Government: Payments to the Talookdar himſelf before his Deprivation, come not, of courſe, within this Deſcription, and will accordingly be admitted.”

(Signed) J. Shakeſpear.

“ The Board agree in the Propriety of the Meaſure, and do adviſe the Honourable Governor General and Council thereof, in the following Manner.”

A true Extract,

(Signed) C. Burrowes.

Agreed, That the following Anſwer be written to Dacca.

To Mr. John Shakeſpear, Chief &c. Provincial Council of Dacca.

Gentlemen,

We have received your Letters of the 5th October and 12th Ultimo, reſpecting the Seizure of a Talook in the Bullua Pergunnah, by a Writ of the Supreme Court.

We approve of the Meaſure propoſed by your Chief, as expreſſed in your Proceedings of the 12th November, now before us.

Fort William,
10th November, 1779.

We are, &c.

GENERAL

GENERAL APPENDIX, N° 15.

To Mr. Charles Goring, Chief, &c. Gentlemen of the Committee of Revenue at Calcutta.

Gentlemen,

WE have received a very extraordinary Piece of Intelligence from your Aumeen and ours at Ulcherra; of their being ſummoned by the Supreme Court at the Complaint of Kiſſen Deo Buckſhy;—but for your more particular Information, we incloſe you a Copy of their Letters to us.

There can be no Doubt of this being done at the Inſtigation of the Mahomed Shahy, Zemindar, and the only Reaſon we can aſſign for his Conduct is, that he hath taken this extraordinary Method to get the Aumeens withdrawn; which confirms us in the Opinion we expreſſed to you in our Letter of the 13th Inſtant, of his endeavouring to elude an Inveſtigation, which he ſeems to apprehend his Conduct will not bear: It will be needleſs for us to comment on ſuch Behaviour, the Impropriety of it, and the Conſequences of the Zemindars applying to the Supreme Court, merely to avoid the Authority of the Councils under whom they are immediately placed, muſt be as evident to you, Gentlemen, as to us; and we will only add, that we flatter ourſelves you will immediately lay the Matter before the Honourable Governor General and Council, or take ſuch other Meaſures as you may think proper.

We are, with Eſteem,
Gentlemen,
Your moſt obedient humble Servants,

Moorſhedabad,
the 20th Jan^{y}. 1777.

(Signed) Edward Baber.
W^{m} Maxwell.
W^{m} Hoſea.
W^{m} Cowper.

A true Copy.
(Signed)
W. Havorkam,
Aſs^{t} Secry.

(Copy.)

Arzee of Darrudgenarrain the Aumeen, on Account of the Diſputes in Bulbareah, in the Pergunnah of Mahomed Shahy.

This Day (viz.) Friday the 7th Maug, about Two Par, the Peons Coſſim and Pertaub, brought (in conſequence of the Complaint of Kiſſen Deo Buckſhy, the Uncle of Doolaul Buckſhy, and Bundeeram) a Summons from the Supreme Court of Judicature in Calcutta, and delivered it to Azeem Ulla and myſelf. We paid proper Reſpect to this Summons; the Contents of which, in Bengals, was to attend on the 4th of February, at the ſaid Court of Judicature. The Peons likewiſe, when they delivered the Summons, told us, that if we did not attend on the Day ſpecified, we muſt pay a Thouſand Rupees.

We were ordered by the Huzzoor to examine into certain Rights which have been for a long Time in the Poſſeſſion of the Khas Talook Officers. Theſe People have abſented themſelves theſe Four Months, and without going to the Gentlemen of the Zillah of Calcutta, or to you, have, by falſe Repreſentations, obtained this Summons, and put a Stop to all the Proceedings. If ſuch Meaſures are permitted, how can Juſtice be done in any Affair? We have none but you to protect us, as we came hither by the Order of the Huzzoor. We have already made our Report regarding the laying up of the Paddy, &c. and the collecting of the Revenue; but have not been favoured with any Anſwer. At this Time the aforeſaid Effects are in the Cutcherry, and the collecting of the Revenues poſtponed. It is impoſſible for us to remain here a Moment longer; we ſhall ſet off, therefore, on Saturday Morning, on our Return to the Huzzoor.

A true Tranſlation.

(Signed) Edw^{d} Otto Ives,
Perſian Tranſlator.

GENERAL APPENDIX, No 16.

READ the following Letter and Encloſures from the Provincial Council of Moorſhedabad.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Gentlemen of the Council of Revenue, at Fort William.

Gentlemen,

We think it our Duty to inform you, that a Summons hath been iſſued from the Supreme Court, directing the Attendance of the Superintendant of the Dewannee Adaulut, at Calcutta, on the 22d of October. This Summons hath been obtained at the Inſtance of the Vakeel of Sudanund Seel, who has been confined by virtue of a Decree of the Adaulut, in a Cauſe that hath been here; the Proceedings of which we have the Honour to encloſe.

It will be unneceſſary for us, Gentlemen, to obſerve, how much the Authority of the Dewannee Adaulut is affected by this Interference of the Supreme Court. Its Decrees are not only in ſome Degree ſet aſide by the Mode of Appeal, but the ſuperintending Member becomes Diffident of his own Judgment, leaſt, while he is acting according to its Dictates, and by the Laws and Cuſtoms of the Country, as preſcribed by your Regulations, he ſhould become obnoxious to different Laws and a different Power from thoſe he immediately acts by.

We have alſo the Honour to encloſe you a Repreſentation from Leckminarain, One of the Canongoes, whoſe Houſe and Effects have been ſequeſtered by a Warrant from the Supreme Court, obtained at the Suit of the Nabob Ehteram ul Dowlah; and another from our Dewan, who hath been ſummoned to give Evidence in a Cauſe that hath been inſtituted by Ehteram ul Dowlah, againſt the Canongoe Leckmenarain, for an old Debt on account of the Revenue.—The Repreſentations ſpeak for themſelves. We ſhall therefore only take the Liberty of obſerving, that, if the old Debts contracted by Zemindars are to be revived in the Supreme Court, there is hardly a Zemindarry that will not be ſequeſtered: That, if the Dewans and public Officers of the Collections are to be called upon in every diſputed Claim which may have paſſed through the Khalſa, it muſt greatly interrupt their other Avocations: That being liable to be tried by Law ſo different from the Uſage and Cuſtoms of the Revenue Branch, will make them fearful of acting in their reſpective Offices; and laſtly, that theſe Summonſes and Writs alarm the Minds of all Ranks of People, and make them averſe to have any thing to do with Matters of Revenue, either as Officers of the Collections, or Farmers.

We beg to know whether it will be neceſſary that the Superintendant of the Adaulut ſhould proceed to Calcutta, or whether you, Gentlemen, will be pleaſed to order the Company's Attorney at Law to anſwer to this Suit.

We have the Honour to ſubſcribe ourſelves with the utmoſt Reſpect,

Gentlemen, &c.

Moorſhedabad,
8th Sept. 1777.

(Signed)

Edwd Baber.
Robt Adair.
G. R. Foley.

Arzee of Sumbooram, Naib Leckmenarain Canongoe.

On the 14th of Bhadon 1184, at 2 paar of the Day, an Engliſhman, 12 Hircarrahs and Peons armed with Swords, and Three Vakeels, and Mohiries of the Nabob Ehteram ul Dowlah, came, accompanied by a Serjeant, all at once to the Door of my Principal's Houſe in the City of Moorſhedabad. My Principal not being in the Houſe, the Durwans ſeeing a Probability of Diſturbance, requeſted them with the utmoſt Submiſſion to ſit down, and told them my Principal's Gomaſtahs would attend immediately, and talk with them on whatever Buſineſs they were upon. To this, they paid no Attention; but going round to another Entrance, ſent a Man over the Wall, broke open the Door, entered with the whole Company into the Houſe, opened all the Doors of the Rooms, came to the Entrance of the Place ſet apart for the Slave Girls, prepared to break it open, and for Two Days together, obſtructed acceſs to the common Neceſſaries of Life. In conſequence of theſe Proceedings, the Gomaſtah's of my Principal called out on the Chief Juſtice (Lord Sauheb in the Original) and the Gentlemen of the Council, but without any Effect. Shuo Purſhaud Ram Bullub, Vakeel, and Hurry Sing a Peon, they unjuſtly beat, the Door of the Toſhuck Khanna they broke open, and after taking an Account of the ready Money and Effects therein, they again faſtened the Door, ſhutting up alſo the Room which contained the Rokumpore Revenues, and affixing a Seal on the Door. The Effects likewiſe of other People which were in the Houſe, they have attacked with the reſt. To the Stable Behal Khanna, Palankeen, Khanna, and other ſuch Places, they have affixed a Seal, and have placed Chokeys of their own People every where.

My Principal is Servant of the King of Hindoſtan, and being exalted greatly above all the People of Bengal, and promoted to the Poſt of Canongoe, is in the Management of Affairs, obedient to the Dewan of this Soubah alone; and beſides this, has no Connection with the Company or any Engliſh Gentleman.—Notwithſtanding this, on account of Debts of many Years ſtanding, claimed by the aforeſaid Nabob (regarding what my Principal's Naibs, who are either dead or diſplaced, were acquainted, but of which he himſelf knows nothing) ſuch a Diſturbance has been raiſed as hath never happened before to any Canongoe or Zemindar (many of whom have ſuch Debts as theſe) and has been the Occaſion of the greateſt Diſtreſs and Affliction. Since my Principal has not the Power of diſcharging his preſent Debts, how is it poſſible he ſhould anſwer thoſe of ſo many Years ſtanding? beſides, the Examination of theſe Matters belongs to the Khalſa Shereefah: I hope, therefore, that this Affair may be properly repreſented, and the Serjeant may be ſpeedily recalled.

A true Tranſlation.
(Signed) Edwd Otto Ives,
Perſn. Tranſr.

A true Copy.
(Signed) E. E. Burges,
Secy.

Repreſentation of the Superintendant of the Adaulut, in the Muxadabad Diviſion.

At this Time I have received a Subpœna, dated the 12th July 1777, under the King's Seal, directing me to attend, on Pain of forfeiting 1,000 Current Rupees, on Wedneſday 19th November, at 7 Gurries of the Day, at the Supreme Court, as a Witneſs in a Cauſe between the Nabob Ehteram ul Dowlah Bahadar and Leckmenaram Roy, Mehauſhy, which is that Day to come on before Sir Elijah Impey. In reply to this I wrote Word to Mr. Wodſworth, that I would obey the Orders: But the Caſe is this; I was heretofore appointed a Mutſuddy of the Khalſa Shereefa, and a hundred ſuch Cauſes as theſe were tried in the Courſe of Buſineſs, and agreeably to the Orders of the then Nazim, decided. Among theſe, was one between the Nabob Ehteram ul Dowlah Bahadar and the Mehauſhy, which was determined, and Writings paſſed between them on the Occaſion: but with reſpect to this Affair, which is Seven or Eight Years ſtanding, I have no Papers of that Time by me, nor can I recollect the Particulars of the Jowaleb Sowaul, which paſſed in an Affair ſo long ago: Had I been a Witneſs I ſhould certainly have recollected, but as I was a Mutſuddy of the Sircar, and the Affair was determined in Conformity to Juſtice, agreeably to the Pleaſure of the then Judges, how can I remember?

Beſides, if People can call me down on one Affair of ſo old a Date, you will be pleaſed to advert that ſince a Hundred or a Thouſand ſuch Matters have been ſettled at the Khalſa, every Perſon may ſummon me likewiſe, and it will be impoſſible for me to undergo the Expences of ſuch Journies to Calcutta, or to give any Account in ſuch Cauſes. At this Time likewiſe I am, by the Favour of the Governor and the Gentlemen of the Council, entruſted with the Office of Dewan to the Moorſhedabad Diviſion, and if ſuch Matters are now brought on and decided, any Perſon that pleaſes may ſummon me as a Witneſs: How then can I execute the Government's Buſineſs?

As it is my Duty to obey, I ſhall certainly conform myſelf to the Order; but it is altogether contrary to the Cuſtoms and Uſages of the Country. What can we do, if the Khalſa Buſineſs is brought before the Adaulut? I hope, therefore, that you will be pleaſed to take this into your Conſideration, and give ſuch Orders as you think proper. I am no Witneſs in the Cauſe, nor is my Teſtimony affixed to their Papers.

A true Tranſlation.
(Signed) Edwd Otto Ives,
Perſn. Tranſr.

A true Copy.
(Signed) E. E. Burges,
Secy.

GENERAL APPENDIX, Nº 17.

READ the following Letter and Encloſures from the Provincial Council of Burdwan:

To the Honourable Warren Haſtings, Eſq. Governor General, &c. Council of Revenue, at Fort William.

Honourable Sir, and Sirs,

The Chief has this Day laid before us a Letter and Summons which he has juſt received from Mr. Juſtice Le Maiſtre; Copy of which we have now the Honour to tranſmit to you.

As in your Letter to us, of the 29th of April laſt, you have poſitively prohibited us from taking the Sepoys from the Rajah's Houſe without your future Orders for ſo doing, we do not therefore think we ſhould be juſtified in complying with the Expectation expreſſed in Mr. Le Maiſtre's Letter without the Sanction of your Authority.

We therefore requeſt to be favoured with your Directions for our Conduct as ſpeedily as the Exigency of the Caſe ſeems to require.

It being our Opinion, that the Chief ſhould comply with the Summons, he will in conſequence immediately repair to Calcutta.

Bahadar Sing, the Conſumany Dewan, had laſt Night a Warrant ſerved on him from Mr. Juſtice Le Maiſtre, and we are informed will proceed to Calcutta To-morrow.

We are with great Reſpect,
Honble Sir, and Gentlemen, &c.
Alexr Higginſon.
W. Marriott,
Will. Pye.

Burdwan,
27th June 1777.

To Alexander Higginſon, Eſqr;

Sir,

A Complaint has been made to me againſt you on Behalf of the Ranny of Burdwan, which appears to be of a very ſerious Nature.

I apprehend that the late Act of Parliament had particularly in View to protect the Natives of this Country from all Oppreſſions committed through European Influence. The Ranny, who appears to be the Widow of one of the moſt ancient Rajahs, and one of the Firſt Families in Bengal, is, it ſeems, with the Rajah her infant Son, kept in a State of Inquietude and Dureſſe, by a Military Force under your Orders and Directions; and a Man of the loweſt State of the People is, againſt her Conſent, intruded upon her, introduced as a principal Servant into her Family, takes upon himſelf the Receipts and Diſburſments of her Caſh, threatens, and even diſmiſſes her Servants at his Pleaſure, puts them under the Cuſtody of Peons, and in every Reſpect acts contrary to the Wiſhes and Inclinations of the Ranny; who is thereby rendered not only no longer Miſtreſs of her own Houſe, but obliged to take Refuge in her moſt inward Apartments, and prevented (from the Fears and Apprehenſions ſhe is under) from performing her accuſtomed Religious Ceremonies. Even her private Apartments (by all Europeans hitherto deemed ſacred) are, it ſeems, not conſidered by you as an Aſſylum: And you, it is ſworn, have broke through that Reſpect and Decorum which, according to the Cuſtoms and Uſages of this Country, is due to every Perſon of her Sex, and peculiarly ſo to a Perſon of ſuch exalted Rank.

I am told (and indeed I have ſeen it in Writing) that this is attempted to be juſtified by Orders from Government: With me it greatly aggravates the Offence, ſince Government is as much under an Obligation to be juſt as the loweſt Individual; and more is to be allowed in Defence of an Individual, who, actuated by the ſudden Impulſe of his Paſſions, commits an Injury, than to him who is the ready Inſtrument to execute the Orders of deſpotic Power; a Power which, give me Leave to ſay, the Creator could never mean to delegate to human Beings.

It is ſworn to me, that the Ranny is not indebted to the public Revenues, except, perhaps, for the current Month, and that ſhe is accuſed for no Crime; and that neither your Sepoys nor your Tormentor, Bahadur Sing, do claim to act under the Proceſs of any Court of Judicature.

If any Reſpect and Regard therefore is to be paid to the ancient Families of this Country; if the Britiſh Legiſlature did mean, by the late Act of Parliament, to protect the Natives; I ſhall be glad to ſee by what Arguments this Government will attempt to juſtify againſt a Perſon of ſuch high Rank as the Ranny of Burdwan; a Violation of Civil Rights which would be deemed deteſtable if practiſed upon the meaneſt Peaſant in the Mother Country.

Every Diſturbance of the peaceable Enjoyment of a Perſon's own Houſe, is an enormous Oppreſſion; and while I ſtay in this Country, I will, to the utmoſt of my Power, give the ſame Redreſs, and the ſame Meaſure of Juſtice to the loweſt of the People, which I hope to ſee given to the Ranny upon this Occaſion, be the Oppreſſor ever ſo great or powerful.

A regard for the Intereſts of the Eaſt India Company, which might be affected by an Arreſt of all the Members of one of their Provincial Councils, prevents me from ſending ſuch a Warrant as the Flagrancy of the Caſe ſeems to require.

Perſonal Reſpect and Regard likewiſe to yourſelf, induces me to ſend only a Summons, which I hope you will attend to without Delay.

But the inſolent Fellow, introduced into the Ranny's Family againſt her Conſent, I have ſent a Conſtable to apprehend.

I have ſummoned likewiſe, the Perſon who commands the Sepoys; and I hope to hear, upon your Arrival at Calcutta, that the Sepoys are withdrawn, and the Ranny left at Liberty to do what, and go where, ſhe pleaſes.

I have the Honour to be,
Sir,
Your moſt obedient and
very humble Servant,
(Signed) S. C. Le Maiſtre.

Calcutta,
June 23d 1777.

A true Copy.
(Signed) W. Farquharſon,
Act^{s}. Sec^{y}.

Read the following Letter from Mr. Higginſon, Chief of the Provincial Council of Burdwan.

To the Honourable Warren Haſtings, Eſq; Governor General, &c. Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,

By a Letter from the Board at Burdwan, dated the 27th Ult. you was acquainted with a Summons having been iſſued by Mr. Juſtice Le Maiſtre, requiring my immediate attendance at Calcutta, to anſwer to a Complaint which had been preferred againſt me and others, by the Vakeels of the Ranny of Burdwan. In conſequence of the above Summons, I arrived at Calcutta the 30th Ult. and the next Day waited on Mr. Le Maiſtre, who delivered into my Hands the Depoſitions of the Ranny's Vakeels, ſpecifying That the Chief and Council at Burdwan had forcibly placed Guards of Sepoys over her Houſe, who had confined her and her Infant Son the Rajah, in her private Apartments, and had placed Bahadur Sing in the Office of Conſumany Dewan, contrary to her Conſent and Inclination; accompanied with many other aggravated Circumſtances, reſpecting the Conduct of myſelf, the Members of the Burdwan Council and Lieutenant Long. I acquainted Mr. Le Maiſtre; that I had only acted in this Buſineſs in obedience to the Orders of the Governor General and Council, which were entered on the Proceedings of the Burdwan Records; a faithful Narrative of which, as far as reſpected the Appointment of Bahadur Sing, and the placing the Sepoys at the Rajah's Houſe, I circumſtantially gave him; likewiſe, that my Motives for paying a public Viſit to the Ranny, were ſolely confined to the Execution of my Duty. Mr. Le Maiſtre however, did not ſeem to think theſe Tranſactions ſufficiently warranted, and has conſequently bound me over to appear at the next Seſſions of Oyer and Terminer, and required Security for my keeping the Peace (particularly towards the Ranny of Burdwan) myſelf in a Bond of One thouſand, and Two Securities in Five hundred Pounds each. Lieutenant Long, the Commanding Officer of the Militia Sepoys, is likewiſe in the ſame Situation, for ſtationing the Guards at the Rajah's Houſe, in conſequence of the Orders which the Burdwan Council gave him, in obedience to your Commands.

I think it my Duty to repreſent theſe Circumſtances to you, for your Information; and, as the Sentence of the Court may perhaps affect our private Fortunes, I hope you will not think it unreaſonable in me, to requeſt of you, as well for myſelf as the other Gentleman concerned, an Indemnification from the Conſequences of the Proſecution.

I have the Honour to be, with Reſpect,
Honourable Sir, and Gentlemen,

Calcutta,
8th July 1777.
(Signed) Alex^r. Higginſon.

To Alexander Higginſon, Eſquire.

Whereas Information has been given to me Stephen Cæſar Le Maiſtre, Eſquire, one of His Majeſty's Juſtices of the Supreme Court of Judicature at Fort William in Bengal, and, among many other Things, aſſigned to keep the Peace within the Provinces, Kingdoms, or Diſtricts of Bengal, Bahar, and Oriſſa, upon the Oaths of Bindabund Baboo, Ramnaut Mitter, Cauſſi Mullick, and Roychunder Shurmind, that you Alexander Higginſon, being a Britiſh Subject, with divers other Perſons under your Directions and Orders, now do keep, and for ſome Time laſt paſt have, in manifeſt Violation of the Peace and Contempt of His Majeſty's Authority, kept, in Dureſſe of Impriſonment, the preſent Ranny of Burdwan, Widow of the late Mahah Rajah Tillock Chund Bahadar, together with her Infant Son, the preſent Mahah Rajah Jaze Chund, by ſurrounding her Dwelling Houſe or Manſion with an armed Force under your Directions and Controul, in the Province of Burdwan, in the Kingdom of Bengal aforeſaid; and by introducing into her Family, againſt her Will and Conſent, a certain Perſon named Bahadur Sing, who by your Orders, and under your Influence and Directions, diſturbs her in the peaceable Enjoyment of her own Houſe: And that from the Influence aforeſaid, the ſaid Ranny is ſo intimidated and apprehenſive, that ſhe is obliged to retire into the moſt inward Apartments of her Houſe, and conceives that her Life itſelf is in Danger. Theſe are therefore in His Majeſty's Name to ſummon you the ſaid Alexander Higginſon, forthwith perſonally to be and attend at my Houſe at Calcutta, in the Province of Bengal aforeſaid, to anſwer the ſaid Complaint, and to bring with you good and ſufficient Securities to keep the Peace towards all His Majeſty's Subjects, and towards all the Inhabitants within the Provinces, Kingdoms, or Diſtricts of Bengal, Bahar, and Oriſſa, eſpecially towards the ſaid Ranny, and her ſaid infant Son.

Given under my Hand at Calcutta this 23d Day of June 1777.

(Signed) S. C. Le Maiſtre.

A true Copy.
(Signed) W. Farquharſon,
Act^g. Sec^y.

Extract of the Revenue Letter from Bengal, dated 18th November 1777.

The Ranny of Burdwan having preferred a Complaint to Mr. Juſtice Le Maiſtre, on the Subject of the Guards placed on the Rajah's Houſe, and the Appointment of Bahadur Sing to the Charge of his Houſehold, he applied to the Chief of the Provincial Council, deſiring him to attend his Summons in Calcutta; and expreſſed his Hopes to hear then, that the Sepoys were withdrawn; and ſent a Conſtable to apprehend Bahadur Beg Sing.

The Provincial Council of Burdwan did not think themſelves juſtified in complying with the Expectation expreſſed in Mr. Le Maiſtre's Letter, without the Sanction of our Authority, having by our Orders of the 29th July, been poſitively prohibited from taking the Sepoys from the Rajah's Houſe; the Chief (Mr. Higginſon) accordingly attended to the Summons, and repaired to Calcutta; and on the Requiſition of that Gentleman, to be indemnified from the Conſequences of the Proſecution, we reſolved that Mr. Higginſon, Lieutenant Long, Bahadur Sing, and all other Perſons who might have been ſubjected to Proſecutions in the Supreme Court, by the Ranny or her Agents, on any Charge, Civil or Criminal, for their Conduct in the Execution of the Orders of the Board, ſhould be indemnified by the Honourable Company for any Coſts or Loſſes which they might ſuſtain thereby.

Mr. Higginſon, Lieutenant Long, and Bahadur Sing, were bound over to appear at the next Seſſions of Oyer and Terminer, and ſeparately compelled to give Security to keep the Peace.

On the 11th July we reſolved, that the Guards ſtationed on the Rajah's Houſe ſhould be removed, and that a Guardian ſhould be appointed, who ſhould have Charge of all the Rajah's Affairs, of what Kind ſoever, and the ſame Authority over all the Miniſters, Servants, and Dependants of the Rajah, as the Rajah himſelf would or might exerciſe, were he arrived at the Years of Diſcretion—That the Guardian ſhould be empowered to ſuperintend the Education of the Rajah, both inſtructing him, and providing ſuitable Preceptors for him, and attending particularly to the Care of his Health—That no Advance or Payments of Money ſhould be made to the Rajah, or any of the Relations, Servants, or Dependants of the Rajah, but by the Guardian, or his Order, given under his Hand or Seal—And that it ſhould be recommended to him to diſmiſs ſuch of the Servants of the Houſehold, as he ſhould judge unfit for their Offices, and appoint others in their Stead; but that Lolla Coſhal Chund and Nernarrain Roy, the then Managers of the public Collections, ſhould continue in their reſpective Offices, and with the ſame Reſponſibility, ſubject however to the Controul and Authority of the Guardian, as the legal Repreſentative of the Rajah.

We accordingly appointed Brijoo Kiſſore Roy to this Charge, at the Recommendation of the Governor General; and directed the Provincial Council to call all the Miniſters and Servants of the Rajah, together with the Guardian, before them, and to cauſe to be read to them both the Subſtance of our Orders, and the Perwannah to the Guardian; and to take every other Meaſure which they ſhould judge neceſſary to give them the moſt complete Effect, and to put an End to the Diſorders which had ſo long diſturbed the Peace and Quiet of the Rajah's Family.

Sir John Clavering and Mr. Francis refuſed to ſign the Letter to the Burdwan Council, veſting Brijoo Kiſſore with Powers which the Governor General and Council, in the Opinion of thoſe Gentlemen, had no Authority to give, for the Reaſons aſſigned in the Proceedings of the 11th and 15th July; as they had likewiſe done in the following Inſtances:

Conſultation, 29th November	1776,	Letter to Meſſrs. Anderſon and Bogle,		S. J. C.
3d December,	——	Circular Letter,	— —	S. J. C.
20th Dº,	——	————	— —	S. J. C.
14th March	1777,	To Moorſhedabad	— —	S. J. C. and Mr. F.
8th April	——	To Burdwan	— — —	S. J. C. and Mr. F.
18th ——	——	To Dº	— — —	S. J. C. and Mr. F.
2d May	——	To Dº	— — —	S. J. C. and Mr. F.
13th ——	——	To Dº	— — —	Mr. F.
——	——	To Mr. Shakeſpear	— —	Mr. F.
8th July	——	To Burdwan	— —	S. J. C. and Mr. F.
Dº	——	To Dº	— — —	S. J. C. and Mr. F.

The Appointment of Brijoo Kiſſore having been intimated to the Ranny, ſhe delivered then a Remonſtrance, which they forwarded to us with their Letter of the 24th July; and the next Day ſhe left Burdwan with the Rajah and Lolla Coſhal Chund, with the Intention, as we were informed by the Council, to come to Calcutta.

Reſolved, That Mr. Higginſon, Lieutenant Long, Bahadur Sing, and all other Perſons who may have been ſubjected to Proſecutions in the Supreme Court by the Ranny or her Agents, on any Charge, either Civil or Criminal, for their Conduct in the Execution of the Orders of the Board, ſhall be indemnified by the Honourable Company, for any Coſts or Loſſes which they may ſuſtain thereby.

GENERAL APPENDIX. N° 18.

LETTER from Mr. Hurſt at Dacca, with the Governor General and Council's Anſwer thereto.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council, Fort William.

Honourable Sir, and Sirs,

In conſequence of a Proſecution being commenced againſt me in the Supreme Court of Judicature in Calcutta, by one Narrain Jacoor, for confining him to enforce a Decree, during the Time I ſuperintended in the Dewannee Adaulut at Patna, in the Year 1773, I am induced, Gentlemen, from the Nature of the Cauſe, to ſubmit it to your Conſideration.

Impreſſed with the Senſe of having acted in the conſcious Diſcharge of my Duty in that Station, and in Conformity with the Regulations drawn out by the late Governor and Council, I am flattered with the Hopes that you will indemnify me for ſuch Charges as may be incurred. A Copy of the Perſian Proceedings in the Cauſe alluded to, I now beg Leave to encloſe you.

I am the more inſtigated to make this Reference to you, as I regard it as a Precedent fraught with the moſt ruinous Conſequences to ſuch Individuals as have had the Honour to ſuperintend in the Dewannee Courts at the different Subordinates, as well as to thoſe who are now actually employed in ſuch Stations. For in caſe the Perſon who has inſtituted the Suit againſt me, proves ſucceſsful, others will naturally purſue the ſame Courſe, flattering themſelves with the Expectation of deriving ample Damages: Thus by this Mode of Litigation, the Courſe of Juſtice in the Country Courts will be entirely counter-acted, and the Superintendants intimidated from exerciſing the Authority with which they are veſted, from the Dread of a Proſecution that muſt inevitably involve them in Difficulties; and hence their Fortunes rendered inſecure and precarious.

Finding it abſolutely neceſſary to employ Attornies to enter an Appearance for me in the judicial Court at Calcutta, I have accordingly given Directions to Meſſrs. Tolfrey and Naylor for this Purpoſe; and have to requeſt, you will pleaſe to permit of their being furniſhed with ſuch Papers as they may deem requiſite to produce in Evidence.

Dacca, I am, with Reſpect, &c.
5th January 1778. (Signed) G. Hurſt.

Reſolved, That an Aſſurance be given to Mr. Hurſt, that if it ſhall appear to the Satisfaction of the Board, from the Proceedings in this Cauſe, that he has conducted himſelf with ſtrict Conformity to the eſtabliſhed Rules of the Dewannee Adaulut, the Board will indemnify him for any Charge which he ſhall have incurred in the Courſe of the Proſecution.

GENERAL APPENDIX, N° 19.

Hon^{ble} Sir, and Sirs,

WE beg leave herewith to encloſe you a Petition from Gulam Nubby, Malzamin of the Cherulea and Muddadea Pergunnahs, for the Year 1179 and 1180. His Cauſe has been ſo exceedingly cruel, that we hope you will think him entitled to the Protection of Government.

The Pergunnahs of Cherulea and Muddadea were not ſold till after repeated Publications, adviſing the Zemindars that this would be the inevitable Conſequence of their withholding the Balance due from them; but theſe Men, thrown out of their Hereditary Lands, are made deſperate; and having the

Advantage of ſuing as Paupers, they ſeem to be determined on ruining Gulam Nubby. The Balance, for the Diſcharge of which theſe Pergunnahs were ſold, amounted to 17,729 Rupees; and the Price at which they ſold was 26,000 Rupees. The Zemindars, however, and their Servants, by entering various Complaints againſt him in the Court of Judicature, for Flogging and Confinement, have already ſubjected him to an Expence of between Thirty and Forty thouſand Rupees. There are at preſent no more Suits againſt him in the Court, but it is ſaid that others are preparing; and it is not likely that the Zemindars, being encouraged by Lawyers, and ſaved all Expences by ſuing as Paupers, will ever let him reſt; particularly as they are ignorant People, and therefore made to believe that they ſhall recover their Pergunnahs by Means of proſecuting Gulam Nubby.

This Man bears a very good Character and Reputation in this Place, and was poſſeſſed of a ſmall Fortune; but he is now miſerable, from the Apprehenſion of being utterly ruined, nay worſe, of being thrown into Jail, from the Suppoſition of his impaired Fortune being larger than it really is. So much is he diſtreſſed by this Apprehenſion, that he declares himſelf determined to leave Dacca, the Place of his Nativity, and of his Abode ſince his Nativity, in order to ſettle at Chinſurah, in Caſe any further Suit is iſſued againſt him.—Under ſuch Circumſtances, your Board will eaſily conceive how diſtreſſing this muſt be to him; and indeed we cannot help expreſſing it as our Opinion, that he is entitled to the Protection of Government, becauſe he has ſuffered in Conſequence of the Engagements he entered into with Government, and becauſe it does not appear he acted otherwiſe than eſtabliſhed Cuſtom has ever authorized. We doubt not this Caſe will be found to merit your Compaſſion, and hope for the Interpoſition of your Board, without which the poor Sufferer and his Family will probably be reduced to Beggary: And although you ſhould not judge it proper to re-imburſe him any Proportion of the Charges already incurred, we beg Leave to offer it to your Conſideration, the authoriſing the Commiſſioner of Law Suits to defend, at the Company's Expence, all future Proſecutions againſt Gulam Nubby by the Zemindars of the aforementioned Pergunnah or their Dependants, for Acts done by him while holding the Malzaminy of their Lands.

We remain, &c.
(Signed) J. Shakeſpeare and Council.

Dacca,
January 6, 1779.

To John Shakeſpeare, Eſq. Chief, &c. Provincial Council of Revenue at Dacca.

The Petition of Gulam Nubby, moſt humbly Sheweth,

That your Petitioner, in 1779, was offered as Malzamin by the Zemindars of the Cherulea and Muddadea Pergunnahs, and accepted of as ſuch by the Committee of Circuit; in conſequence whereof your Petitioner continued to diſcharge the Revenues of theſe Two Pergunnahs as the Kiſts became due to Government, whether the Money was paid by the Zemindars or not; and that your Petitioner was frequently conſiderably in Advance for them.—In the Year 1181, Diſputes having ariſen in the Moffuſil between the Chowdries and the Inhabitants, no more Money was remitted from the Pergunnahs to diſcharge their Revenues.—Your Petitioner was, however, in conſequence of his being their Security to Government, called upon for the Arrears, had Peons put over him, and was finally compelled to diſcharge them.—In this Situation he addreſſed the Council, ſetting forth his Inability thus to pay the Monthly Kiſts due from the Pergunnahs, while the Zemindars furniſhed him with no Money. The Council, after having ſent repeatedly Peons and Seapoys into the Moffuſil, at length ordered, that if the Zemindars or their Agents did not appear at the Sudder in 20 Days, and diſcharge the Debt due to Government and to your Petitioner, their Pergunnahs ſhould be diſpoſed of by public Outcry.—Upon this, Primnarain and Seeb Perſaud, Chowdries, and Mahomed Sadock, Naib, came up to Dacca; but being unable, when called upon by the Council, to pay their Balances, or to give Security, a Publication was iſſued, advertizing the Sale of the Pergunnahs. In this Dilemma the Zemindars applied to me, both perſonally and through the Interpoſition of others, requeſting that I would take them and their Pergunnahs into my own Hands, and accept of a Kiſtbundee, by which they would pay my Balances.—Moved by their Applications, and unwilling they ſhould be totally ruined (the inevitable Conſequence of the Lands being ſold) I accepted their Kiſtbundee, having previouſly adjuſted my Accounts, whereby there appeared 15,000 Rupees due to me from the Pergunnah; at the ſame Time I delivered into Council a Rauzenamah and a Kiſtbundee from the Zemindars, wherein they bound themſelves, that if they paid not their Debts agreeably thereto, they were willing their Lands ſhould be publicly ſold by Auction.—At their Deſire, a Sucdar was ſent by me into the Moffuſil to collect the Money. Some Time after this, Hurdep and Coſſinaut, Chowdries, arrived at Dacca, and having received Information of the Tenor of the Kiſtbundee delivered the Council, they conſulted with the former mentioned Peons belonging to the Pergunnahs, when no Money coming from the Moffuſil, they addreſſed your Petitioner to this Effect.—"Let us remain a few Days with you in Irons, and when the News of this reaches the Pergunnahs, "the Money will be ſent up quickly." Having aſſured me of their Willingneſs to ſubmit to this Meaſure, and of its being the only one that could be purſued to collect the Revenues, inſtigated only by Advice to ſerve them, and do every Thing that might contribute to preſerve their Zemindarry, Irons weighing about half a Seer each Pair, were put upon their Legs, and in this Condition they remained for a ſhort Time. They were allowed to dreſs their Victuals and eat regularly Twice a Day, in a Houſe inhabited by the Naibs of the Bumſy Pergunnahs.—They ſlept in a Room in your Petitioner's Houſe at Nights.—Three Months were now elapſed ſince the Delivery of their Kiſtbundee; and no Revenues having been remitted during this Period, your Petitioner was again called upon by the Officers of Government, to diſcharge Two Kiſts, which in the Interim had become due, amounting to 2,729 Rupees, which he, your Petitioner, was obliged to pay, and which augmented his Debt from the Zemindars to 17,729 Rupees; beſides which they were indebted to Government in the Sum of Rupees 1,598. 7. 17. which alſo was demanded of your Petitioner.—Authorized as he your Petitioner was, by the immemorial and eſtabliſhed Cuſtom of this Province, in ſuch Caſes to enforce Payment from the Zemindars by any Means in his Power; and without which Authority veſted in the Malzamins, it is well known to you, Gentlemen, the Revenues would never be collected; ſtill your Petitioner forbore of himſelf to uſe harſh Methods. But having repreſented his Situation to the Council, and requeſted their Enforcement of their former Orders, they were pleaſed to grant your Petitioner's Requeſt; and a previous Advertiſement being iſſued, the Pergunnahs were ſold by public Auction, and the Amount due to Government and your Petitioner diſcharged from the Proceeds.—This, however, did not take Place until a further Time had been granted the Zemindars, either to pay the Debts, or give Security thereof, both which they were unable to perform. —Your Petitioner flatters himſelf he has, in all his Dealings with the Zemindars, acted with more than common Lenity under the Circumſtances above recited.—If culpable in having confined them, he can only ſay, that he was led into it by the Parties themſelves; for he has many Witneſſes to teſtify, that when they requeſted him to take a Kiſtbundee, and ſent a Suckdar into the Moffuſil to collect the Revenues, he, your Petitioner, replied, What could his Suckdar be able to effect, when the Peons and Sepoys ſent down by Government, had been beat and driven away? the Zemindars anſwered, That they were willing to remain in Confinement until the whole Money was paid; and that if they failed in the ſtipulated Payments, the Pergunnahs ſhould be ſold, and he reimburſed from the Proceeds.—Your Petitioner has troubled you, Gentlemen, with this Recital of his Tranſactions, reſpecting theſe Pergunnahs; and now takes the Liberty to requeſt, and humbly entreat, your Protection and Aſſiſtance on account of troubleſome and vexatious Law Suits which have been ſince carried on againſt him by the Zemindars, and which have brought him to the Brink of Ruin.—In the Year 1182 a Complaint was lodged by Ramnarrain Mokuntrum Comar Sing, and Kiſſen Churn, in the Supreme Court, on an Action of Debt by the Zemindars for the Sum of 23,000 Rupees; upon which your Petitioner was publicly arreſted in the Streets of Dacca, to the great Detriment of his Credit, and Diſgrace of his Family; and to prevent his Ruin by Commitment to Priſon, was obliged to find Bail in the enormous Sum of 60,000 Rupees. Your Petitioner, though an entire Stranger to the Cuſtoms of the Court, and the Laws of England and the Language, was obliged to employ Attornies to defend his Cauſe, which, after ſome Time being brought to a Hearing, was diſmiſſed with Coſts; but, nevertheleſs, your Petitioner was never able to recover One Rupee of the heavy Expence (near 2,000 Rupees) which he had ſo unjuſtly borne and ſuffered.

Notwithſtanding the ſaid Diſmiſſion, the Zemindars, by Means of the Attornies for Paupers, lodged a Second Complaint againſt your Petitioner for falſe Impriſonment; when Four Warrants and Eleven Summons were iſſued out againſt him: And to complete his Diſtreſs, the ſame Attornies employed by him in the former Cauſe, and to whom therefore he confided all his Secrets, were now engaged to conduct the Accuſations laid againſt him.—The Plaintiffs in this Suit, Hurdep Chowdrie Coſſinaut, and Sheepperſaud, and with Inderam Bhoſe, obtained a Decree againſt your Petitioner for 8,400 Rupees Damages, with Coſts of Suit, amounting to betwixt 8 or 9,000 more, owing, as your Petitioner ſuppoſes, to the Negligence of his Attornies, who did not ſend the Subpœnas for his Evidences at Dacca till within a ſhort Time of the Trial, and deprived him of the Benefit of their Teſtimonies. Some Time after this Primnarrain and Kiſſen Chund, which laſt your Petitioner ſolemnly declares he knows not, nor ever confined, commenced an Action to the ſame Purport; and Primnarrain having produced Coſſinaut, a Plaintiff in the former Suit, and Kiſſen Chund being aided by the Depoſitions of Servants, the Court have again given a Decree againſt your Petitioner, with 8,000 Rupees Damages; to diſcharge which, he muſt be obliged to ſell all his Houſes, Goods, and Effects.—Your Petitioner, therefore, humbly takes the Liberty, Gentlemen, to lay his Grievances before you, and earneſtly entreats your Recommendation of his Caſe to the Honourable Governor General and Council, ſeeing that he has ſuffered ſo much from being Security to Government for theſe Pergunnahs. Your Petitioner cannot help remarking the particular Hardſhip of his Situation, in being tried by Laws he is entirely unacquainted with, and which exiſted not in theſe Provinces at the Times, theſe Actions were committed; ſo that his Acts and Dealings, which were warranted by the Cuſtom of his Country, are now Violations of Laws which it could not be foreſeen would ever have had the ſmalleſt Operation whatever in this Diſtrict, and eſpecially in the Revenue Matters; and thoſe only between Native and Native. He knew of no Juriſdictions over the Zemindars, but your Board; nor any Laws, but thoſe Perwannahs iſſued from your Council of Revenue. It is therefore the humble Opinion of your Petitioner, that it will appear reaſonable and equitable, that he be reimburſed his Loſſes for acting conformable to ſuch Orders, which now appear, from the heavy Fines levied from him, were contrary to the known Laws of your Country; a Circumſtance your Petitioner was entirely unacquainted with. The Laws under which he ſuffers may be extremely juſt, when Engliſhmen are the Objects either of their Protection or Cenſure; but your Petitioner humbly conceives he ought to be indemnified for having followed the Order of Government, and done nothing repugnant to the Laws of his Country. Inſtances, he is informed, of ſuch Indemnification can be produced, ſince the Supreme Court hath been in this Country; which gives your Petitioner great Hopes, that on Examination he will be found a particular Object of Favour, having ſuffered Impriſonment many Days by the Provincial Council, for Arrears of Revenue, to the great Injury of his Health and Credict. When he takes the ſame Meaſures with the Zemindars from whom ſuch Arrears are due, under the Sanction of Perwannahs from the ſaid Council, he is proſecuted by ſuch Zemindars in the Supreme Court, for falſe Impriſonment, and caſt in heavy Damages, without knowing how to defend himſelf. Your Petitioner reſts the Juſtice of his Claim on the Equity of the Honourable Governor General and Council; and truſts to you, Gentlemen, who are well acquainted with the Nature of the Country Government, and the Cuſtom of this Province in particular, for a lively Repreſentation of his Sufferings, and his peculiar Situation. Without ſuch Relief as is hereby prayed for, your Petitioner, far advanced in Years, and a large Family, muſt, from a State of Affluence, the Earnings of honeſt Induſtry for Fifty Years, be reduced to Penury and Want. Without your Aid and Aſſiſtance, your Petitioner deems himſelf quite remedileſs, and prays to be relieved.—Your Petitioner, drove to the laſt Diſtreſs, uncertain what future Suits may be entered againſt him by the numerous Gomaſtahs and Servants of theſe Zemindars, who, while they continue to carry on Suits at no Expence, as Paupers, and obtain ſuch large Damages, will be encouraged thereby to harraſs and oppreſs your Petitioner. Being fearful for his Character, his Fortune, and his Life, neither capable of knowing againſt what Laws of England he may have offended, nor heretofore deriving any Benefit from theſe Laws, implores your Protection and Aſſiſtance; He humbly ſolicits your Repreſentation of this his hard Caſe to the Honourable Governor General and Council, and hopes the Character he has always bore, and which he flatters himſelf is not entirely unknown to you, will plead on his Behalf. He entreats the Protection of Government to reſide within the Territories of the Honourable Company; for, without that, it will be unſafe and impoſſible for him to remain within the Juriſdiction of the Supreme Court.—And your Petitioner, as in Duty bound, ſhall ever pray, &c.

A true Copy.
(Signed) C. Burrows,
Secy.

GENERAL APPENDIX, Nº 20.

Extract of the Proceedings of the Dacca Provincial Council, dated the 2d February 1779.

The Chief.

I Should be glad of the Board's Advice of what is proper to be done in the following Caſe.—Laſt Night a Bailiff of the Supreme Court came to me, ſhewed me an Execution from the Sheriff againſt Mirza Jaun for about Rupees 8,000, at the Suit of Elias Abraham; told me, he or his Peons had arreſted Mirza Jaun; that Mirza Jaun had been reſcued, he therefore publicly called upon me, in the Name of the Supreme Court, for my Aſſiſtance to reſtore his Priſoner—I told him I would give him a Reply this Morning.

In the mean Time a Man came to me in the Name of Mirza Jaun, to complain to me, that an European Serjeant had forced his Maſter's Doors, made his Way into the Zenana Apartments, wounded ſome of the People, and praying the Protection of the Government.

I have only to remark, that Mirza Jaun is not ſubject to the Juriſdicton of the Court, and I ſhould apprehend by the Nature of the Execution, that a Decree muſt have paſſed againſt him for Non-appearance—This is only Surmiſe; Mirza Jaun's Vakeel is in waiting, and will inform the Board more particularly of the Circumſtances.

(Signed.)
J. Shakeſpeare.

GENERAL APPENDIX, No 20.

Hurnarain, the Vakeel, being called in, delivers a Sporuthauel, containing a Relation of the Circumſtances; which being tranſlated is as follows:

The Particulars of Soorauthaul, taken on the 13th of the Mohrum Moon, or the 20th Year of the King's Reign, equal to the 22d of Mang of the Bengal Year 1185.

On Monday about 11 o'Clock in the Forenoon, upon a Complaint made by Mr. Abraham's Son, his Gomaſtah brought a Warrant from Calcutta, and came with a Bailiff, Peons, &c. to the Entrance of the Houſe of Mirza Jaun, the Zemindar of Pergunnah Duckenſavagepore, in Ambe Golah, and ſaid, Mirza Jaun, come out; upon which Mungul the Durwan, and others who were there, told them that the above Mirza was not at home, but that he was gone to the Moſuſſil—Some Time after which, the abovenamed began creating a Diſturbance; therefore the People at the Entrance ſhut the Door—The Bailiffs, by Strokes with Clubs broke it open, and beat the People that were there, and went into the Zenana Apartment of the Houſe, but did not find the above Mirza; he however wounded a Slave Girl, named Aumena, with a Sword. They ſeized Sauhel Jaun and Muaun Ghauſoo, the Sons of Cojah Ryauzeullah, who came to ſee what was the Matter, beat and diſgraced them, and carried them on board of his Budjeyu, and confined them. In the Diſturbance a Silver Beetle Box, &c. Effects, were carried away out of the ſaid Mirza's Zenana Apartment—Whoever knows this Affair, in the Name of God ſigns as Witneſſes to this Paper.

Witneſſed, Shaik Allum, Inhabitant of Amlee Golah—Doolub Kiſhen Dut—Raje Kiſhen Boſe, Inhabitant of Chaun Pertaub—Purraun Kiſſen Shaw, Inhabitant of Amlee Golah—Ram Kiſſen Dhaib, Inhabitant of Shoomuddiah—Baboo Cawn Mogul Bhaig Rhuttun Cawn, Inhabitant of Amlee Golah—Mahomed Hauſhem.

A true Tranſlate.
(Signed) J. P. Broughton.
Perſian Tranſlator.

The Vakeel being put upon his Oath, is queſtioned as follows:

Queſt. Is Mirza Jaun in Dacca?
Anſw. No, he is in the Pergunnah.

Queſt. How long is it ſince he went there?
Anſw. I heard that he went about 4 Days ago.

Queſt. How many Days is it ſince you have ſeen Mirza Jaun?
Anſw. This is the Fourth Day ſince I have ſeen him.

Queſt. Did you ſee Mirza Jaun ſince the Serjeant or Court Peons went to the Houſe?
Anſw. No, I have not.

Queſt. Are the Contents of the Paper you have now delivered to the Board, true to the beſt of your Knowledge?
Anſw. Yes, it is every Word true.

As it appears clearly from the Depoſition of this Man, that Mirza Jaun was not at Dacca, and conſequently, that the Execution could not have been duly ſerved, the Board are of Opinion, that the Chief ſhould reply to the Officer, that he cannot give him, in this Caſe, the Aſſiſtance he requires.

Extract of the Proceedings of the Dacca Provincial Council, dated the 9th of February 1779.

The Chief.

I muſt inform the Board, that I underſtand, both from the Sheriff's Officers and Mirza Jaun's Agent, that the latter is coming to Dacca, and that there is great Probability of the Diſpute mentioned on our Proceedings of the 2d, being accommodated. It will be therefore better to wait a ſhort Time before we trouble the Honourable Board upon the Subject.

(Signed) J. Shakeſpeare.

Extract

GENERAL APPENDIX, No 20.

Extract of the Proceedings of the Dacca Provincial Council, the 11th February 1779.

The Chief records the following Papers:

On Thurſday laſt I reported to the Board the Probability of an Accommodation of the Diſpute between the Sheriff's Officer and Mirza Jaun, the Zemindar of Duckenſavagepore, about the alledged Arreſt and Reſcue; and on that Ground, propoſed that we ſhould ſuſpend giving the Honourable Governor General and Council the Trouble of a Reference.

I have this Day received the following Letter from the Under Sheriff, to which I annex my Reply addreſſed to the Sheriff, and inform the Board, that Mirza Jaun is not yet come to Dacca. —My Perwannah miſſed him, but the News has brought up the principal Naib, Konneram, to Dacca, and freſh Orders are gone for Mirza Jaun.—I now think it neceſſary we ſhould adviſe the Honourable Governor General and Council of the Affair; for the Sheriff's Officer has repeated his Application to me this Day, and informed me he has Orders to proceed to Calcutta, with or without Mirza Jaun, carrying his Two Perſons with him; to which I replied, I could do nothing in the Affair till Mirza Jaun's Arrival.

To John Shakeſpeare, Eſq; Chief of the Revenue Council, Dacca.

Sir,

I have received a Letter from William Saunders, One of the Officers of the Sheriff, informing me of the Arreſt and Reſcue of one Mirza Jaun, and that he had applied to you, as Chief of Dacca, for your Aſſiſtance, and laid the Circumſtances fully before you; yet I am ſorry to find, he has not met with that Aſſiſtance he had every Right to expect.

The Contents of your Letter on this Subject to the Sheriff have been communicated to me; and it is in conſequence of which, I now give you the Trouble of this.

From the Letter of Mr. Saunders, and from the Whole of what I have been able to learn on this Subject, I eaſily collect, that Mirza Jaun is entirely under your Power, and is ready to be delivered up at your Deſire. I have therefore to requeſt, on the Part of the Sheriff, that he may be immediately delivered into the Cuſtody of Mr. Saunders; and that you will be pleaſed to order a ſufficient Guard to attend him to Calcutta, with Two other People, who are deeply concerned in the Reſcue, and whom, Mr. Saunders informs me, are now in his Cuſtody.

This being complied with, will, in all Probability, ſave a great Deal of Trouble, and which I very much wiſh to avoid. Your Anſwer by the Return of the Dawk will be eſteemed a Favour.

I am, &c.

Calcutta,
8th February 1779.

(Signed)
H. Stark,
Under Sheriff.

To Sir John D'Oyly, Sheriff.

Sir,

I have been favoured with a public Letter of the 8th February, from the Under Sheriff. It is true, the Sheriff's Officer did apply to me, adviſing, that he, or rather a Peon of his, had arreſted Mirza Jaun, and that Mirza Jaun had been reſcued from his Hands; he therefore demanded my Aſſiſtance to take his Priſoner: But on the other Hand, the Agents of Mirza Jaun had petitioned for Protection againſt the European, who, with other Perſons, had forced his Houſe in his Abſence, entered the Zenana Apartments by main Force, wounded even a Slave Woman with a Sword, and had made Priſoner of Mirza Jaun's Brother and Couſin, and ſtill retained them in Confinement in his Boat. It being ſignified to me, upon Oath, that Mirza Jaun was not at Dacca when the Arreſt was ſaid to be made by Mr. Saunders' Peons, I replied to the Officer, that I could not give him the Aſſiſtance he required. However, in the Courſe of the Day, underſtanding that Mirza Jaun's Agents were willing to ſatiſfy the Execution, or Amount of the Debt ſued for, I adviſed the Officer to inform the Sheriff of the Matter, and recommended him to wait the Reſult of a Meſſage, diſpatched off for the Purpoſe of informing Mirza Jaun.

I am ſurprized that the Under Sheriff ſhould write, that "he is ſorry to find the Officer did not "meet with that Aſſiſtance he had a Right to expect." Mirza Jaun was not in Dacca when the Officer applied to me; I could do no more than ſend for him, which was done that Evening, or the next Morning; and I am in hourly Expectation of his Arrival: But I muſt neceſſarily wait the Orders of my Superiors, for my Guidance as to the next Step to be taken.

I am,
Sir, &c.
(Signed) J. Shakeſpeare.

I encloſe Copy of Mr. Stark's Letter to me.

Agreed to addreſs the Honourable Governor General and Council of Revenue as follows.

True Extracts.
(Signed)
Coſby Burrows,
Secry.

Governor General.

I recommend that theſe Papers be ſubmitted to the Peruſal of the Advocate General, and that his Opinion and Advice be required upon them.

Mr. Wheler,
Mr. Francis, } Agreed.
Mr. Barwell,

Orders were iſſued to the Commiſſioner of Law Suits, to ſubmit the Papers and take the Opinion and Advice of the Advocate General upon them accordingly.

The following Letter and Proceedings received from the Provincial Council at Dacca, having been circulated Yeſterday to the Members of the Board, are now entered with the Opinions delivered thereon.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council of Revenue, Fort William.

Honourable Sir and Gentlemen,

We beg Leave to lay before you, the Circumſtances which have paſſed in an Attempt to ſerve Execution of the Supreme Court upon Mirza Jaun, the Zemindar of Duckenſavagepore.

The Sheriff's Officer alledges the Arreſt to have been duly made by his Peons; that Mirza Jaun was reſcued from their Hands; in conſequence of which he went to ſeize his Priſoner, and not meeting with Mirza Jaun, he has actually confined Two of his principal Relations, whom he now keeps in his Boat, and intends, we here, to carry off to Calcutta.

We are not able to apprize you of the Nature of the Suit, on which an Execution has been iſſued againſt this Zemindar, and as the Detail of the Circumſtances cannot be brought within the Compaſs of a Letter, we hope you will excuſe our troubling you with the Proceedings at large.

We beg to have your Orders, whether Mirza Jaun is to be delivered up to the Sheriff's Officer, upon a Repetition of the Demand; and ſhould be happy, if there could be a preciſe Line of Conduct laid down for us in ſimilar Caſes.—We ſhall be much concerned to have erred, but as every Circumſtance led us to imagine the Arreſt had not been made, we did not ſuppoſe ourſelves obligated to ſeek the Perſon, and deliver him up to the Sheriff's Officer.—Indeed, had we determined to have given up Mirza Jaun, his Abſence muſt have delayed it.

We daily expect Mirza Jaun at Dacca, and on his Arrival, ſhall detain him until your Orders are received.

We are, &c.

Dacca,
11th Febry. 1779.
(Signed)
J. Shakeſpear.
Wm. Holland.
M. Day.
G. Hatch.
Hy. Lodge.

GENERAL APPENDIX, N° 20.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 26th of February 1779.

Read the Letter from the Provincial Council of Dacca, of the 11th Inſtant, with the Proceedings accompanying it, recorded the 19th Inſtant.

No Anſwer having been received from the Advocate General, to the Reference made to him on this Subject; leſt any ill Conſequences ſhould ariſe from the want of the Inſtructions required by the Provincial Council of Dacca,

Agreed, that they be directed, ſince they mention their Intention of detaining Mirza Jaun, who may therefore be reported to be with-held from the Sheriff's Officer, unleſs he be ſurrendered into his Cuſtody, to ſurrender him to the Cuſtody of the Sheriff's Officer, whether the Demand for him is repeated or not.

Extract of a Letter from the Governor General and Council, to the Chief and Council of Dacca, dated the 26th of February, 1779.

Since you mention your Intention of detaining Mirza Jaun, who may therefore be reported to be with-held from the Sheriff's Officer, unleſs he be ſurrendered into his Cuſtody, we direct that you ſurrender Mirza Jaun to the Cuſtody of the Sheriff's Officer, whether the Demand for him is repeated or not.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 9th of March, 1779.

The Secretary lays before the Board the Opinion of the Advocate General, on the Proceedings of the Provincial Council of Dacca, in the Caſe of Mirza Jaun, which had been ſent to him by the Company's Attorney.

The Advocate General's Opinion.

Taking as Facts the ſeveral Circumſtances that are to be collected from the Papers communicated to me by the Company's Solicitor, the Arreſt upon which the Sheriff and his Officer found their Complaint of a Reſcue, and their Application to the Chief and Council of Dacca for their Interpoſition, to enforce Obedience to the Proceſs of the Supreme Court of Judicature, does not appear to have in Fact been ever made.

It ſtands upon the ſingle Aſſertion of the Officer, who was armed with the Proceſs of the Court, and is combated by a Cloud of Evidence, whoſe Teſtimony not only deſtroys his Credit upon the main Charge, but proves him to have offered that unwarrantable and wanton Outrage, not only to the Dwelling, the Domeſtics, and the Credit of Mirza Jaun, but to the Perſons and Reputations of Saheb Jaun and Mecaum Ghauſoo, for which the Court (as for a groſs Abuſe of the Power lodged in him) will (I have not a Doubt) upon a proper Application, ſupported by full Affidavits of the Facts ſtated in the Papers now before me, attach him, and for which the Party injured can alſo maintain an Action, and will be entitled to a Satisfaction in Damages. Proceſs may be executed and accompanied (as in the Caſe now before me the Attempt appears to have been) with Circumſtances of Inſult, Cruelty, and Outrage, as will ſubject the Officer to the Conſequences I have mentioned, though the Arreſt may ſtill be good.

Had the Arreſt been actually made, and followed by an Attempt to oppoſe the Officer, and prevent the Removal of his Priſoner, that would have been the Situation for him to go to a ſuperior Power for Aſſiſtance; and he would, no Doubt, in that Caſe, have found effectual Support. But as the Law will not ſuppoſe Oppoſition to its Proceſs, it has not provided any extraordinary Means for its Execution; nor has the Officer appointed to execute it, any Claim to the Aſſiſtance of Government till he finds himſelf oppoſed; nor ſhould ſuch Demand, if made, be attended to.

The honeſt Pride with which Engliſhmen contemplate the ſuperior Excellence, and wiſe and liberal Proviſions of their Laws, and the Reverence they at all Times, and in all Places, hold them in, will (conſidering the unavoidable, the urgent, and ſtill multiplying Difficulties under which Juſtice is adminiſtered, according to thoſe Laws, in this diſtant Country) lead them (I doubt not) to facilitate, in every warrantable Way, their Execution, and to diſcourage and Repreſs every Attempt to depreciate, weaken, or oppoſe them. I muſt, however, at the ſame Time admit, that they have no poſitive Claim to any Auxiliary here, which they have not at Home; and as I know of no Authority under which the Board at Dacca, or any other Subordinate, or even the Supreme Government itſelf, can juſtify, ſo I know no Motive that ſhould prompt, their ſending for, and delivering to, an Officer charged with the Execution of Civil Proceſs, the Object of that Proceſs.

(Signed) John Day,
Advocate General.

March 3, 1779.

Agreed, that a Copy of the Advocate General's Opinion be tranſmitted to the Provincial Council of Dacca, with the following Orders:

To Mr. John Shakeſpeare, Chief, &c. Provincial Council of Dacca.

Gentlemen,

Having referred your Letter of the 11th Ultimo, with the Proceedings which accompanied it, to the Advocate General, for the Purpoſe of obtaining his Opinion and Advice upon the Subject of them; we now tranſmit to you a Copy of the Opinion which he has delivered to us on this Occaſion, and direct that you make it your Guide in all Caſes to which it will apply; and in the preſent, if you have not already delivered up Mirza Jaun to the Sheriff's Officer, in conſequence of our Orders of the 26th ult. and he ſhall be in your Cuſtody, you will diſcharge him; if he is not in your Cuſtody, you will revoke the Orders given, and any other Means which you may have uſed for compelling the Attendance of Mirza Jaun.

Fort William,
9th March 1779.

We are, &c.

Agreed alſo, That the following Letters, containing a Narrative of the preceding Tranſactions at Dacca, and a Copy of the Opinion of the Advocate General upon the Proceedings in this Caſe, be circulated to the ſeveral Provincial Councils and Collectors.

To Mr. David Anderſon, Preſident, &c. Provincial Council for the Diviſion of Calcutta.

Gentlemen,

The Provincial Council of Dacca have ſubmitted to us a Caſe, in which an Attempt was made to ſerve an Execution of the Supreme Court upon a Zemindar of that Province. The Sheriff's Officer alledged the Arreſt to have been duly made by his Peons—that the Party was reſcued from their Hands; in conſequence of which, he went to ſeize his Priſoner, and not meeting with him, he actually confined Two of his principal Relations, with an Intention, as we underſtand, of bringing them to Calcutta. On the Complaint of Reſcue, the Sheriff's Officer publicly called upon the Chief, in the Name of the Supreme Court, for his Aſſiſtance, to reſtore his Priſoner; but it appearing that the Party was not at Dacca at the Time, and conſequently, that the Execution could not have been duly ſerved, the Chief, with the Concurrence of his Council, declined to give the Sheriff's Officer the Aſſiſtance required. It is alſo ſtated in Evidence, that the Serjeant with his Peons, forced the Doors of the Party, penetrated into the Zenana Apartments, and wounded ſome of the People.

Having referred the Proceedings of the Provincial Council of Dacca to the Advocate General, for his Opinion and Advice upon the Subject of them, we now encloſe a Copy of the Opinion which he has delivered to us on this Occaſion; and direct that you conform to it as a general Rule of Conduct in all Caſes to which it will apply.

Fort William,
9th March 1779.

We are, &c.

The ſame to all the Provincial Councils (Dacca excepted) and to the Collectors, leaving out in the Letters to the latter "with the Concurrence of his Council."

GENERAL APPENDIX, N° 21.

Rev. Department.

Extract of Conſultations held at Fort William the 26th of March 1779.

Mr. Shore's Minute.

MR. Vanſittart having reſigned the Charge of the Adaulut, by the Regulations of the Committee, it devolves upon me.

If no new Difficulties attended the Execution of this Office, I ſhould enter upon it without Heſitation. Great Labour and Application, the bare Poſſibility of acquiring Reputation, and the Probability of loſing it, are Inconveniences which the Superintendants of Country Courts of Juſtice at all Times experienced; and there is ſome Compenſation for them, derived from the Senſe of the Benefits reſulting to the Community, from a due Performance of the Duties of the Inſtitution.—But the Situation is attended with new Dangers, which every prudent Man muſt wiſh to avoid.

The Dangers I allude to, ariſe from vexatious Proſecutions in the Supreme Court of Judicature, to which the Superintendant of an Adaulut, particularly in Calcutta, is more immediately expoſed than any other Officer in the Company's Service.

The more effectually he performs his Duty, the more he maintains the Dignity of his Office, and enforces his Deciſions, the more he is liable to Proſecution. If, in procuring the Attendance of Witneſſes, he ſhould exerciſe any compulſatory Powers; if, to reſtrain trivial and groundleſs Complaints, and to detect Chicane and Intrigue, he ſhould put in Practice the diſcretionary Powers with which he is inveſted by the public Regulations, of impoſing a moderate Fine, or inflicting a mild corporal Puniſhnent, he may become ſubject to a Suit which may terminate in his Ruin.—If, in Caſes of diſputed Property, where a local Inveſtigation is requiſite, and where no other Mode of aſcertaining the Rights of the Parties in the Cauſe occur, he ſhould depute an Aumeen, decide upon his Reports, and enforce the Decree, the ſame Danger impends; as in doing this, he acts contrary to a Principle which I underſtand has been declared by the Court, that "Delegatus non poteſt delegare".

Under theſe Circumſtances, he cannot proceed with Vigour, or carry any Decree into Execution, but with a trembling Hand: Since, with no Motive of Self-Intereſt to urge, no partial Conſideration to bias him, he is liable to ſuch ruinous Conſequences.

The Mode of tranſacting Buſineſs in this Country is ſo fundamentally different from that which prevails in England, and ſo contrary to the Letter and Form of Engliſh Laws, that ſcarce any Tranſaction tried by theſe Standards will admit of a Juſtification.—What a Jury of Natives might call an Act of Lenity or Moderation, in an Engliſh Court of Law might be conſtrued into a Deed of oppreſſive Security, and Fine or Impriſonment follow the Commiſſion of it. Decrees founded on a Knowledge of the Cuſtoms and Uſage of Hindoſtan, may be tried by Statutes of Engliſh Laws, and if the Proof of the Cuſtoms be not clear and poſitive, which frequently happens, the Superintendant who paſſes them, or his Officers who carry them into Execution, may become the Sufferers.

Even in the daily Courſe of Buſineſs in the Committee which relate to the Management of the Revenues, we feel too ſenſibly the Truth of theſe Obſervations: In the Place of a ſummary Mode of Proceeding; we are cautious to obſerve Diſtinctions, Rules, and Forms, leſt our Proceedings, if hereafter laid before the Supreme Court, ſhould be deemed informal or irregular; and our Conſtituents, who have hitherto defended the Suits inſtituted againſt their Servants for official Acts of Duty, pay the Penalties of our Irregularity. I appeal to every Member of the Committee, to declare whether, I have ſtated Facts or Suppoſitions; and if the Difficulty we meet in performing the Buſineſs committed to our Charge, be not ſenſibly increaſed from the Cauſe?

The Provincial Court of Juſtice under the Diviſion, is, by its Situation an Imperium in Imperio which cannot ſubſiſt without perpetual claſhing of Authority; in which Caſe, the Powers it derives from its Inſtitution muſt, whenever they come into Competition with thoſe of a greater and more extenſive Juriſdiction, fall, or be circumſcribed in ſuch a Manner as to become uſeleſs and ineffectual.

In the Proceedings of this Committee, under Date the 12th *November* 1766, I find a Report from the Superintendant of the Adaulut, with the following Records.

"The Superintendant further obſerves, That whilſt he was before the Court, after interrogating him as to the Right of the Dewannee Adaulut, to take Cognizance of the Cauſe in queſtion, the Chief Juſtice acquainted him, by Way of Intimation for his future Guidance, that it was the unanimous Opinion of the Court, that no Courts within the Town of Calcutta, and the Diſtricts thereof, nor within the Precincts of the ſeveral Factories, had a Right to take Cognizance of Civil Cauſes depending betwixt Inhabitants, or mere Matters of Meum and Tuum.—The Superintendant believes the above is the Purport of the Intimation given him by the Courts." I own it is to me a Matter of Surprize that any Perſon, after this Intimation, ſhould have Courage to venture upon the Charge of the Adaulut of this Diviſion. It is true, that Two Years have elapſed, and the Intimation has not yet been enforced. But the Power expreſſed in it, although for the preſent it may lay dormant, is not the leſs on this Account to be deemed an Object of Terror. The Intimation is general, and extends to any Periods, and a Superintendant may Ten Years hence be made amenable for having acted in Contradiction to it.

For the Reaſons herein aſſigned, without recurring to any others, I muſt beg Leave to decline taking upon myſelf the Superintendance of the Adaulut, and requeſt the Committee will be pleaſed to communicate my Objections, as ſtated in this Repreſentation, to the Governor General and Supreme Council.

To them I apply for Permiſſion to be relieved from the Fears and Dangers attending the Execution of the Duties of this Office; profeſſing, however, that I ſtill mean to abide by their Determination.

If it be their Pleaſure that I ſhould act as Superintendant to the Adaulut, I ſhall make no further Heſitation; truſting to them for Indemnification againſt any Suits that may ariſe, and their Conſequences, whilſt I continue to do my Duty to the beſt of my Abilities; to conform to the Regulations laid down for my Guidance, and obſerve the Cuſtoms and Uſages of this Country. Under theſe Reſtrictions I may flatter myſelf with the Hopes of obtaining it when neceſſary, (if contrary to my Inclination and Requeſt, I am ordered to undertake this Office); upon any other Grounds I would not preſume to aſk it.

(Signed) J. Shore.

A true Copy. (Signed) W. Haverkam,
Acts Secretary.

Extract of a Letter from the Governor General and Council to the Calcutta Committee of Revenue, dated the 26th March, 1779.

We direct that the Court of Dewannee Adaulut be held and adminiſtered according to its conſtitutional Forms. We are not acquainted with any Inſtance which might ſerve as a Foundation for the Apprehenſions expreſſed by Mr. Shore; and ſhall ourſelves always indemnify, as far as we are able, every Perſon acting under our Authority in the regular Diſcharge of his Duty.

GENERAL APPENDIX, Nº 22.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 2d April 1779.

READ the following Letter from the Collector of Rungpore.

Honourable Sir, and Gentlemen,

There arrived at Rungpore on the 14th of this Month, a Warrant from the Court of Judicature, with Twelve Peons, who took off the following Shroffs:

Ramcont Shaw,
Bungbeharry Shaw,
Radachurn Shaw,
Peutram Chowdry,
Ragonaut Dutt,
Nundoolut Dur,
Zeruff Shaw,
Mattaub Roy;

Who are the Principals in the whole Buſineſs of the Revenue during the Time they were employed to receive it from the Zemindars, and deliver Pauts and ſealed Bags into the Treaſury. —The Amount for which theſe People at preſent ſtand accountable to the Company, is as follows:

In ſealed Bags and Pauts in the Treaſury, and not yet inſpected, F. A^{rs}. —	171,032	2 —
Bags delivered to Ramcont Shaw, Bungbeharry Shaw, Radachurn Shaw, and Peutram Chowdry, the Four principal Shroffs, for the Purpoſe of exchanging in F. A^{rs}. being the Form always uſed — — —	59,234	— 15
	230,266	2 15

As the Peons were ſent to for their Warrant, but refuſed to deliver it, and much Privacy has been obſerved in the Whole of this Tranſaction, inſomuch, that I am yet unacquainted with the Name of the pretended Proſecutor, it is probable, that either no Warrant was ſent, or that the Perſon who is the Proſecutor, muſt have commenced his Suit with no other View but to releaſe the Shroffs, who were in Confinement for the laſt Sum which they had neglected to pay agreeable to their Engagements. It is my Duty to appriſe you, that this Sum of 59,234—15. can never be recovered but by having theſe People immediately prevented from going out of the Provinces. They are now in Calcutta; and I am informed are about to depart Jaghernaut. I have very little Doubt that the Shroffs are poſſeſſed of Property ſufficient to indemnify the Company, but it is impoſſible to aſcertain the Whole that may be due from them, until their Bags are opened and examined, which I have ordered to be done immediately, in the Preſence of creditable Witneſſes, as in the Caſe of Monick Chund.

I am, &c.

Rungpore, (Signed) C. Purling.
27th March 1779.

Ordered, That the Roy Royan do immediately ſeize Monick Chund, and the other Shroffs; receiving Directions from Mr. Purling, both reſpecting their Names and where they are to be found; and that Mr. Purling be directed to aſſiſt him in this Diſcovery:—That theſe Orders be inſtantly tranſmitted to him and Mr. Purling, that there may be no Loſs of Time in apprehending the People: That on Apprehenſion they be immediately ſent to Rungpore; and that Mr. Purling be directed, on their Arrival there to cauſe them to be impriſoned, unleſs they ſhall immediately pay the Sums which may be due from them to the Company.

Agreed, That the following Letter be in conſequence written to the Collector of Rungpore.

To Mr. Charles Purling, Collector of Rungpore.

Sir,
We have received your Letter of the 25th and 27th Ultimo.

We have given Orders to the Roy Royan immediately to ſeize Monick Chund, and the other Shroffs receiving Directions from you, both reſpecting their Names and where they are to be found: We therefore deſire you will aſſiſt the Roy Royan in this Diſcovery. On Apprehenſion he is directed to ſend them inſtantly to Rungpore; and we direct, that on their Arrival there, you cauſe them both to be impriſoned, unleſs they ſhall immediately pay the Arrears which may be due from them to the Company.

Fort William,
2d April 1779.

We are, &c.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, 6th April 1779.

Read the following Letter from the Collector of Rungpore.

To the Honourable Warren Haſtings, Eſq; Governor General, and the Gentlemen of the Council, at Fort William.

Honourable Sir, and Gentlemen,
I have the Honour to encloſe you a Habeas Corpus, ſerved upon me in conſequence of the Confinement of the Shroffs.

Calcutta,
5th April 1779.

And am, &c.
(Signed) C. Purling.

The Governor General reports to the Board, that on Saturday laſt the Company's Attorney waited on him, and acquainted him, that a Writ of Habeas Corpus had been iſſued, directly to the Collector of Rungpore, Gunga Govind Sing, and Baboo Khawn, commanding them to bring up the Bodies of the Shroffs whom the Roy Royan had confined in the Khalſa, in conſequence of the Orders iſſued to him for that Purpoſe on the 2d Inſtant; and that an immediate Return would be called for, unleſs the Perſons confined were admitted to Bail, or ſuffered to go at large, under Charge of Peons. This being during the Receſs of the Council, the Governor General deſired the Attorney to lay the Circumſtance of the Caſe before the Advocate General, and to be guided by his Advice; who recommended, that the Requiſition ſhould be complied with (preſuming a good Return might be made to the Writ) as it would be impoſſible to collect Materials and prepare it with that Expedition which was required; the Secretary accordingly iſſued an Order to the Roy Royan to releaſe the Shroffs under the Charge of Peons.

Read the following Letter from the Collector of Rungpore.

To the Honourable Warren Haſtings, Eſq; Governor General, and the Gentlemen of the Council of Revenue, at Fort William.

Honourable Sir, and Gentlemen,
By Leters from Rungpore I am informed, that the Dewan, under Pretence of Summons and Warrants from the Court of Judicature, has not, for ſome Time paſt, ſtirred out of his Houſe. I have written ſo long ago as the 10th March, to examine the Shroffs Bags, and to pay particular Attention to the Collections, which are, by his abſenting himſelf, much fallen in Arrears, and I imagine will be more ſo at this Period, being the latter End of the Year; and I am obliged to obſerve, that by Miſmanagement or Deſign, I find my Orders in moſt Inſtances either delayed, and thereby rendered of little Effect, or entirely diſobeyed.

I need ſcarce mention the Neceſſity of Punctuality in exacting the Rents, to enſure any Collections at all. I therefore ſubmit to your Conſideration, the Meaſures to be taken thereon, which admit of no Delay.

Calcutta, 13th April 1779.
I am, &c.
(Signed) C. Purling.

Agreed that the following Reply be written thereto.

To Mr. Charles Purling, Collector of Rungpore.

Sir,

We have your Letter of this Date.

We direct, that the Dewan of Rungpore be ſuſpended from his Office, and authorize you to appoint a proper Perſon to the immediate and temporary Charge of the Collections in his room.

In the mean Time, we deſire, you will ſtate to us the particular Facts on which you ground the general Charges againſt the Dewan.

Fort William, 13th April, 1779.
We are, &c.

Read the following Letter from the Collector of Rungpore.

Honourable Sir, and Gentlemen,

I am honoured with your Letter of the 13th Inſtant, and encloſed tranſmit you Three Charges againſt the Dewan of Rungpore.

It appears from the whole Circumſtances of the fictitious Claim ſworn to, in order to take up the Shroffs from the Dewan's Remiſſneſs, in not inſpecting the Warrant, giving me a regular Information of their Apprehenſion, nor oppoſing the Enlargement of Perſons ſo greatly indebted to Government, and from his Dilatorineſs in examining the Shroffs Bags, that all the Colluſion in this Buſineſs extends to the Dewan, though it cannot be made a Charge againſt him, as the Facts might happen without ſuch Colluſion.

Calcutta, 17th April 1779.
I am, &c.
(Signed) C. Purling.

Charges againſt Gungaperſand, Dewan of Rungpore.

Firſt. On the 25th February I wrote him to iſſue a Publication, that the ſeveral Zemindars who are in Balance ſhould have their Lands ſold; this he has not done to this Day, though they are ſtill in Arrears. Copies of my Letter and his Anſwer are annexed.

Extract of my Letter to Gungaperſand Dewan, dated 16th Fagun, or 25th February 1779.

The Foujee of the Maug Kiſt, which you have ſent, I comprehend, beſides the Balance of Rangamatty and Baharbund, the Zemindars of the Three following Pergunnahs, Bycontpore, Futtypore, and Coondy, withhold their Kiſt of Maug. On this Account I write you, that if, upon Receipt of this they do not pay their Balance, you will iſſue a Publication that their Lands ſhall be ſold.—The ſmall Pergunnahs are deſirous of a ſhort Credit; I allow of this, but if they fail you will inform me.

Extract of a Letter from Gungaperſand Dewan, dated the 6th of Chyle, *or 17th March 1779.*

I have received your Letter of the 17th Fagum; it ought to have been the 16th. You have ordered me to iſſue a Proclamation concerning the Pergunnahs, Bycontpore, Futtypore, and Coondy. The Futtypore Zemindars ſay, that if they cannot pay the Revenue of the preſent Year, they will ſell ſuch a Quantity of Land as will make it up; they have paid but a ſmall Part of their Maug Kiſt. The Zemindars of Coondy alſo ſay this; but it appears that they no Intention of performing what they ſay. Beſides the Balance of the Maug Kiſt, there is much due on account of the Kiſt of Faulgun. I have written a Letter to the Zemindar of Bycontpore, reprehending him for his Miſconduct; he anſwers, that he will, by being allowed a little Time, pay the Whole; but I am not ſatisfied that he will pay it. There are no reſponſible Aumlahs of the Zemindar in the Country.

Second. On the 10th March I ſent an Order to my Sircar, to be communicated to him, to examine all the Shroffs Bags; this he has not done, but it is poſſible he may now be about it, as I wrote him again on the 3d of this Month, that I would lay a Complaint againſt him to the Board, if he did not immediately comply with my Order. It appears as if he was deſirous of preventing a fixed Claim being made upon the Shroffs.

The Third muſt be a general Charge, becauſe he has been very negligent of his Buſineſs ever ſince my Appointment, very ſeldom coming to the Cutcherry; owing, I believe, to his being ſuperſeded by me in Office. This I ſhould not notice, becauſe the Naib Dewan attended in his room, and Papers were carried to his Houſe to be ſigned, in order to be of Force in the Country; but ſince the late Warrants have been granted againſt the Rungpore People, he has made them a Pretence to keep himſelf in his Houſe, and the Zemindars will keep back their Rents, as they are not preſſed by the proper Authority, and ſuppoſe (or perhaps know) that Gungaperſand's Abſence is deſigned to encreaſe the Diſturbance occaſioned by Warrants iſſued from the Supreme Court. When the Warrant arrived at Rungpore for the Shroffs, he was ſent to by my Servant, and told, that it was his Duty to demand a Sight of it, take a Copy, and tranſmit it to me; but this he neglected, and gave for Anſwer, that he could not preſume to reſiſt the Orders of the Court of Judicature. Had he demanded a Copy of the Warrant and oppoſed the Enlargement of the Shroffs till he could have received Orders from Calcutta, he would have prevented their being brought down at all.

Honble. Sir, and Gentlemen,

Encloſed I have the Honour to tranſmit you an Account of the Examination taken of the Shroffs Bags, and remain with Reſpect.

Hon^ble^. Sir, and Gentlemen,
Yours, &c.

Calcutta,
28th April, 1779.

(Signed) C. Purling.

Hon^ble^. Sir, and Gentlemen,

I have the Honour to encloſe a State of the Claim of Government upon the Shroffs of Rungpore.

It is neceſſary to obſerve, that Morick Chund's Depoſit-Bags were delivered under the Sanction of the Head Shroffs, and are therefore included in this Account.

The Amount of R^s^ 61,234. 0. 15. is the Balance of a Sum ſuppoſed to have been in the Depoſit Bags, which (according to Cuſtom) were taken from the Treaſury by the Four Head Shroffs, named Ramcont Shaw, Bungbeharry, Radachurn Shaw, and Petram Chowdry.—Part of it has been repaid in French Arcot Rupees, and even a ſmall Sum after their Departure from Rungpore, as you will obſerve by the Account; viz. R^s^ 644. 0. 5. The Depoſit Bags were ſaid, according to the Labels tied to them, to contain Kazanah Shi,—Rupees equal in Value to French Arcot, and only current in Rungpore, but the Coin which was paid on account of the Revenues. The Buſineſs of the Head Shroffs was to receive the Kazanah Shi, Rupees, Part of which they delivered to the Petty Shroffs to be exchanged into French Arcot Rupees, and Part they exchanged themſelves. For this Sum it was (called Tubdielca Bankee) the Shroffs had Peons, put Mohſul over them by the Treaſurer and Dewans; for when the Depoſit Bags were once in the Treaſury, as they were ſuppoſed to contain the real Specie of the Collections, and their full Amount, and were only depoſited till the Shroffs themſelves ſhould exchange them; no Reſtraint could be put on them on that Account.

The different Species of Rupees mentioned in the Account, are valued in the Preſence of other Shroffs, by the Treaſurer, according to their Eſtimation in thoſe Parts.

The

GENERAL APPENDIX, N° 22.

The new Nazanny Rupees have a very large Exchange deducted from them, becauſe that is the actual Value of them at Rungpore at this Time, and the Shroffs muſt become liable to this Loſs, as it may be proved from the Accounts of the Zemindars of the Coachwana Diſtricts, that no ſuch Specie was ever paid to the Shroffs by them, nor indeed would they have received it. The Nature of the Shroffs Situation gave them a Power, Influence, and Advantage; and though they complain of the Reſtraint they ſuffered (being under the Charge of Two or Three Peons, and allowed Daily to go to their Homes to eat and to ſleep, and only brought to the Cotcherry at the Hours of Buſineſs) as a Deſtruction of their Credit and Character, they conſtantly uſed to exerciſe this Authority over the Zemindars and their Naibs.—The Claims againſt the Shroffs ſtands thus; viz.

Amount Deficiency in the Bags they depoſited in the Treaſury as Revenue —	1,15,555	9	—
Amount (Tubdeelea Bankee or) Balance in their Hands of a Sum delivered them to be exchanged — — — —	62,234	—	15
F. A. R^s —	1,76,789	9	15

Among the Shroffs named at the Head of the Account, there is One who was not included in the Warrant, named Radacunt Shaw. It may be neceſſary to require his Attendance here.—Another Man, named Mattaub Roy, being threatened by the Shroffs for not coming away with them, ſent his Nephew and Partner Buſſunt Roy to Calcutta; he will at any Time attend your Board. The Examination of theſe Men, as to the Nature of their Connection with the other Shroffs, may elucidate the Whole of this Buſineſs.

I am, &c.

Calcutta, (Signed) C. Purling.
4th May, 1779.

Hon^{ble}. Sir, and Sirs,

Conformable to your Orders communicated to me by your Secretary, I have repaired to Rungpore. Mr. Purling being abſent in Calcutta, I have aſſumed Charge of the Buſineſs, and have the Honor to encloſe you a State of the Treaſury to this Day. You will perceive by this Account, the very large Amount due from the Shroffs, which I have explained at large in a ſeparate Account, ſtating their former Balance due to the Treaſury; the Account at which they rated the Bags they depoſited in the Treaſury; the Produce of thoſe Bags on opening them, and the total Amount due from them. You will perceive I have credited them only for ſuch Sums found in the Bags, the Amount of which could be duly aſcertained; the Remainder of the Specie (found in the Bags) being new Naranny Rupees, and new Naranny Rupees defaced, I could fix no Value on them, ſo as to be able to give the Shroffs Credit for them; neither will it be poſſible to bring them to account till they are exchanged; for which Purpoſe I beg you will be pleaſed to give me your Inſtructions, that I may proceed without the Riſk of their availing themſelves of any Irregularity which I might be liable to.—It appears that they are ſubject to all the Loſs on the Exchange, ſince they never could have received new Naranny Rupees from the Rungpore Diſtricts.

I have the Honour to be, with the greateſt Reſpect, &c.

Rungpore, (Signed) R. Goodlad,
6th May, 1779. Act$_g$ Collector.

Ordered, That the Secretary do enquire whether the Shroffs who were ordered to be apprehended on the 2d of April, and who were releaſed the next Day by a Writ of Habeas Corpus, are now in Calcutta, and in what State they are.

Ordered, That the Company's Attorney be directed to ſtate to the Advocate General, all that has paſſed on this Subject, particularly the Apprehenſion of the Shroffs by the Orders of the Board, through the Channel of the Khalſa or Roy Royan, and their Diſcharge by a Writ of Habeas Corpus; and that he require his Opinion and Advice upon the Means to be taken for the Recovery of the Sums due from thoſe People.

Extract of a Letter from the Governor General and Council to the Collector of Rungpore, dated the 25th May 1779.

We have referred the Subject of the Demands of Government upon the Shroffs to the Advocate General, for his Opinion and Advice upon the Means to be taken for the Recovery of the Sums due from thoſe People; In the mean Time you will direct your Aſſiſtant to ſeize their Effects.

GENERAL APPENDIX, N° 21.

Read the following Letter from the Collector of Rungpore.

To the Hon^ble. Warren Haſtings, Eſq; Governor General, and the Gentlemen of the Council of Revenue at Fort William.

Hon^ble. Sir, and Gentlemen,

I beg Leave to encloſe you Two Summonſes, ſerved at Rungpore upon my Servant Bridgoo Roy, at the Complaint of Two of the Head Shroffs. As I am pretty certain that the Shroffs have been confined, or had Peons put upon them, only by my Orders, for the Balance of unchanged Money in their Hands, it appears that the Complaint has been made to diſtreſs me, by Means of Proſecutions raiſed againſt my Servant, who may have conveyed my Orders to the public Officers. I ſubmit it to you to order the Company's Attorney to appear for him, or to return me the Writs, that an Attorney may be applied to on the Part of Bridgoo Roy, to anſwer to the Complaint. The Shroffs have likewiſe demanded of Bridgoo Roy, the Amount paid in Part of the laſt Sum delivered them to be exchanged, the Balance of which is ſtated in their Account to be 61,234. 0. 15. and all the Aumley of the Diſtrict are ſubpœned.

Calcutta,
26th May, 1779.

I am, with Reſpect,
Honourable Sir, &c.
(Signed) C. Purling.

Ordered, That the Collector be informed, that the Board do not think fit to interfere in the Matter referred to their Conſideration in the above Letter, and that the Secretary do return the Writs to him.

Ordered, That the Collector be directed to be careful to ſupply the Place of the Officers who have been ſubpœned to give Evidence in this Cauſe.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, 27th July 1779.

To the Honourable Warren Haſtings, Eſquire, Governor General, and the Gentlemen of the Council of Revenue, at Fort William.

Honourable Sir, and Sirs,

Encloſed I have the Honour to tranſmit you a Tranſlate of a Petition that has been preſented by the Chrowdrannee of Bamingdungah, and beg to be favoured with your Commands concerning it. The Peons appointed to ſerve the Warrant, refuſed, for ſome Time, to ſhew their Authority; they ſaid, they came from the Supreme Court, but would neither tell or produce what Power they were inveſted with; and it was not till I had ſent to them twice, that I obtained a ſight of the Warrant. If the Court Peons are not obliged to produce the Authority by which they act, it will ſubject the Inhabitants to numberleſs Abuſes, as any deſigning Perſon has only to declare he comes from the Supreme Court (the very Name of which carries Terror throughout the Moſuſſil) to enable him to extort what Money he pleaſes from the People.

I beg to be honoured with your Directions in what Manner I am to act, ſhould a ſimilar Circumſtance occur of a Peon coming to Rungpore, and refuſing to produce his Authority.

I am, with Reſpect,
Honourable Sir, and Sirs, &c.
(Signed) R^d. Goodlad, Act^g. Coll^r.

Tranſlation of the Petition of Joy Durgah, Chrowdrannee of Pergunnah Bamingdungah.

The Pergunnah Bamingdungah is my Zemindarry. It was near Two Months that Two Peons have ſeated themſelves at my Door; and ſay, they are from the Supreme Court with a Warrant at the Suit of Mr. Feake. I am a Widow, and have concerned myſelf with nothing, but the Buſineſs of my Malguzarry; I have neither been a Servant of the Company, or of any individual European; and am entirely ignorant of the Cuſtoms of the Court of Calcutta: This I am willing, if called upon, to take Oath of. Beſides which, I am a Woman of ſome Character, whoſe public Attendance on a Court of Juſtice, would entail on her a Diſgrace ſhe could never ſurmount.

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The Preſence of the Peons has cauſed all my Aumlah to run away; and I have no one to ſettle with the Ryots for the enſuing Year's Malguzzary.

Therefore hope you will repreſent my Caſe to the Supreme Court, that the Peons may be withdrawn.

A true Tranſlation.

(Signed) R^{d}. Goodlad, Act^{s}. Collector.

Par. 8. We are ſurpriſed at the Queſtion contained in this Letter. Upon every ſimilar Occaſion, we direct, that you oppoſe the Peons until they ſhall have produced their Warrants; and if they ſhall refuſe to ſhew their Warrants, you will take them into Cuſtody, reporting the ſame to us. You will, however, be careful to appoint Witneſs to be preſent at what paſſes between your Officers and the Perſons ſo ſtiling themſelves Officers of the Supreme Court.

The Secretary lays before the Board the following Letter from the Company's Attorney.

To George Hodgſon, Eſq. Secretary to the Honourable Board of Revenue.

Sir,

The Actions brought by the Rungpore Shroffs againſt Bridjoo Roy being terminated, and every Pretence for their remaining in Calcutta thereby removed, I will requeſt you to make the ſame known to the Honourable Board, that they may take ſuch Meaſures as they deem expedient for adjuſting the Claims of the Honourable Company with theſe Perſons.

I am, Sir, &c.

Calcutta,
July 26th, 1779.

N. Naylor,
Attorney to the Hon^{ble} Company.

Ordered that the Roy Royan be directed immediately to ſend the Shroffs back under a proper Guard to Rungpore, and that the Secretary do acquaint the Collector of this Order.

Extract of a Letter from the Aſſiſtant at Rungpore, to the Governor General and Council, dated the 5th June, 1779.

I am honoured by the Receipt of your Letter of the 25th Ultimo, and have, conformable to your Orders contained in the Second Paragraph, applied to the Council of Dinagepore, for the Particulars of the Demand on Mirza Mahomed Tuckey. The Third Paragraph, directing me to ſeize the Effects of the Shroffs, I would have carried into immediate Execution; but being uncertain as to the Extent of your Orders, I have poſtponed them, till I am honoured with your further Inſtructions; not knowing whether it is your Intention I ſhould ſeize the Effects of all the Shroffs, who have had any concern in the Rungpore Treaſury, or only the Three principal Shroffs, who were reſponſible to Government for the whole Body, as particularized in my Letter of the 24th ultimo. I take the Liberty to obſerve, the Effects the Shroffs have here, are very inconſiderable; and I am given to underſtand, that they have removed whatever was valuable to Chinſurah.

GENERAL APPENDIX, N° 23.

N. B. Bengal Year 1186 answers to 1779 of the Christian Æra.

Month of Aughin answers to the Month of September.

Letter to the Governor General from the Rajah of Beerbhoom.

ON Tueſday the 3d Day of Aughin, about the Firſt Paſſe of the Day, a certain Kranny or Writer came to the Houſe of Wareſs Ally, One of my Servants, and ſeating himſelf, ſaid to him, Where is Your Rajah? Wareſs Ally in Reply aſked him, Who he was, and what he came for? The Kranny anſwered, I am come to ſummon your Rajah. Wareſs Ally thereupon aſked him, Upon what Buſineſs he wanted to ſummon his Rajah, and from what Gentlemen he was ſent? he replied, He was ſent from the Law Adaulut, on a Complaint from the Siſter of Mahomed Tuckee, to ſummon the Rajah. Wareſs Ally then told him, That he, as well as his Rajah, bowed to the Orders of the Court, but that the Rajah was not a Subject of it; and deſired him to depart. The Kranny upon this pulled out an Engliſh Paper out of his Pocket, and began to read it; ſeeing which Wareſs Ally obſerved to him, that he did not underſtand Engliſh; that he would not hear him; and that it was to no Purpoſe for him to read. At laſt the Kranny grew angry, and throwing down the Paper on the Covering where Wareſs Ally was, got up, and ſaid, That it was well that he would go for the preſent, but would have to return after Two Months and Two Days with a Warrant. Afterwards he departed, leaving the Paper where he had thrown it. Notwithſtanding that, Wareſs Ally exclaimed to the King, the Company, and the Governor General, againſt its being left in that forcible Manner, and declaring that no one ſhould touch it.

I am not ſubject to the Law, for I never was a Servant of the Company, or of any Gentlemen; I am a Renter of the Sircar. To you I owe my Riſe and Support, and I have therefore thought it neceſſary to write you the whole Circumſtances of the above Affair. The Paper ſtill remains in the ſame Place, and I ſhall act in the Matter in whatever Manner you may order.—A Sourouthal, atteſted by Witneſſes who were preſent at the whole Tranſaction, is tranſmitted to my Vakeel, and he will lay it before you. I truſt that ſuch Orders will be iſſued on the Subject, as to prevent any Diſturbances in the Moſuſſil during the Seaſon of the heavy Collections, and enable me to attend with Vigour to the Completion of the Revenue. The Order which the Gentlemen tranſmitted to me through my Vakeel, I conſider to confer the higheſt Honour on me, and ſhall be careful to comply with it, as well as with any future one which may be iſſued.

Tranſlated.

(Signed) Wm. Chambers,
Perſn. Tranſlr. to Khalſa.

N° 4. Tranſlation.

Be it hereby ſignified, that I, Shaik Wareſs Ally, Arezbaigy to Behadre Zemaun Khan, Rajah of the Chucklah of Beerbhoom, do require Teſtimony, and demand Evidence from the Number of People of Credit, Condition, and Veracity, who are acquainted with, and can verify the following Facts and Words:

On Tueſday the 3d of Aughin, in the Bengal Year 1186, about the 3d Paſſe, a certain Kranny arrived at my Bungalore; and ſeating himſelf, aſked, Where our Rajah was? I aſked him who he was, and whence he came? he anſwered, He came from Calcutta, and brought with him an Order from the Company.—Thereupon, in Preſence of Witneſſes, I aſked him what he came for? and he having anſwered, He came to ſummon our Rajah; I demanded of him from what Gentleman he came, and upon what Buſineſs? he anſwered, That he was come from the Supreme Adaulut, in Conſequence of a Complaint from the Siſter of Mahomed Tucky. I replied, That both myſelf and the Rajah bowed to the Orders of the Court; but that the Rajah was not a Subject of it, and that I ſhould not ſuffer his Authority. Hereupon the Writer took a Paper out of his Pocket, and began to read; ſeeing which, I told him, that we did not underſtand Engliſh; that it was to no Purpoſe for him to read; and that we would not hear him. The Writer at laſt of himſelf grew angry; and throwing the Engliſh Paper upon the Covering upon which I was ſitting, ſaid, That it was well my Rajah had not given him a Meeting; and that he ſhould return with a Warrant after Two Months and Two Days.—Afterwards, I exclaimed to the King, the Company, and the Governor, againſt his throwing down and leaving a Paper, which Nobody here knew anything about—declared, that it ſhould remain where it was; and that no one would take it into their Hands. Let ſuch Perſons as poſſeſs Information or Knowledge of the above Circumſtances, prove the ſame, by affixing their Seals and Signatures to this Paper; which will be an Action meritorious in the Sight of God and Man.——Dated the 7th of the Month of Zuckaddah, in the Year 1193 of the Reign, or the 4th of the Month of Agin; of the Bengal Year 1186.

Witneſs, Noor Ally.

Signed
Zahoor Ullah Khan.
Ghoolam Muſtaffa.
Mullah Hoodah Buaſh Khan.
Iſmael Khan Jotto.
Futtah Sing Khan.
Aſſud Ullah.
Meer Gloolam Hoſaine.
Murgah Kamail Baig.

Tranſlated.

(Signed)
W^{m}. Chambers,
Pers^{n}. Tran^{r}. to Khalſa.

GENERAL APPENDIX, N° 24.

Tranſlation.

Petition of Rajah Ragonaut Narrayne, Zemindar of Patcheat.

LAST Year Juggernaut Roy, my former Paiſhcar, complained againſt me in the Supreme Court, and procured a Warrant to be ſent againſt me. Mr. Naylor, whom I employed as my Vakeel, made Anſwer for me, upon Oath, that my Zemindarry was not under the Court; and in conſequence of this Anſwer, the Chief Juſtice wrote to Mr. Higginſon, to take Evidence upon Oath, and tranſmit his Proceedings. Accordingly, Mr. Higginſon called me before the Council, and taking my Oath, wrote an Anſwer to the Court. Juggut Churn, under a falſe Claim which he has ſet up to my Zemindarry, has now procured Two Armenians to be deputed into the Moſuſſil, who make Diſturbances. I am not ſubject to the Court; but am, notwithſtanding, thus incommoded. I am to pray, that a Perwannah of Encouragement may be able to pay proper Attention to the Collection of the Revenue.

Tranſlated.

(Signed)
W^{m}. Chambers,
Pers^{n}. Trans^{r}. of Khalſa.

GENERAL APPENDIX, N° 25.

Tranſlation.

Petition from Permanund Doſs, Vakeel of the Ranny of Raje Shahy.

MY Principal, Maha Ranny Bowanny, Zemindar of Pergunnah Raje Shahy, &c. in the Chucklah of Moorſhedabad, and Soubah of Bengal, is ſubject to the King of Indoſtan, and is in no wiſe dependant on the Authority of the Supreme Court. She has paſſed her whole Life-time in the Mahl Saraye, and never had Tranſactions in Buſineſs with any one. Shut up in her Houſe, ſhe has applied, with her Officers and Servants, to the diſcharge of the Revenue. Several Perſons, under Claim of old Debts, &c. have now procured Summonſes againſt her from the Supreme Court, and others are preparing to follow their Example.—At the ſame Time, when her Gomaſtahs offer to preſs Payment from the Renters, the latter frequently apply to the Supreme Court, and procure Warrants, Summonſes, and Attornies Chits, to be iſſued to them, and great Confuſion is occaſioned thereby in the Moſuſſil, as well as Obſtructions in the Collections, and the Cultivation of the Country.

My Principal and her Servants are not ſubject to the Authority of the Court.—Unleſs a Stop is put to iſſuing Summonſes and Warrants, no Perſon will be able to live in Peace, and attend to the Collections and Improvement of the Country. As the Company are Dewans of this Country on the Part of the King, and the Gentlemen of the Council their Repreſentatives, I truſt they will extend their Favour to my Principal, inaſmuch as to prevent ſuch Impediments in future from the Supreme Court, and enable her to attend with Confidence to the Collection and Payment of the Revenue. If this is not done, it will be impoſſible for her to collect the Revenue, or ſupport herſelf in her Zemindarry.

Tranſlated.

(Signed) W. Chambers,
Pers^{n}. Trans^{r}. to Khalſa.

GENERAL APPENDIX, N° 26.

READ the following Report from the Superintendant of the Khalſa Records, with the Repreſentation of the Dewan of Burdwan accompanying it. The Superintendant of the Khalſa Records having, in purſuance of the Honourable Board's Orders of the 3d December, called on the Dewan of Burdwan for the Balance of Revenue due from that Zemindarry, he in Anſwer thereto deliverd a Petition to the Superintendant, requeſting that it might be tranſlated, and laid before the Honourable Board; which the Superintendant now delivers accordingly.

Khalſa,
10th December 1779.

(Signed) G. G. Ducarell,
Sup^{t}. Khalſa Records.

Tranſlation of a Repreſentation received from Cauly Perſand Sing, Dewan for the Zemindarry of Burdwan.

In the Bengal Year 1185, Maha Rajah Nobkiſſen engaged for the Farm of Turroff Gopul Nagur, &c. in Burdwan, and for that of Samnagur, &c. in the Dowhry Mahls.—The Amount of the Revenue of the Michals in queſtion is Rupees 36,000, of which Sum the ſaid Rajah did not pay a ſingle Rupee for the above Year.—I cannot ſend Peons to enforce Payment from him, on account of Apprehenſions from the Supreme Court, and any Meſſages which are ſent to him to this Effect, he diſregards. In this Situation I have been obliged to pay up the Revenue of theſe Mahls, by taking up Loans from Merchants.—I am to pray, that the Money which I have been obliged to borrow for the above Purpoſe, may be reimburſed to me, together with Intereſt.

Roſe Chund Roy, an Inhabitant of Havely Shahr, engaged for the Farm of Turroff Joypoor, for a Period of Two Years, commencing from the Year 1183, and gave Bacharam Roy as his Security. —There is a Balance of Rupees 6,500, due from that Mahal, which the Farmer fraudulently will not pay, but has abſconded. The Houſe of Bacharam the Security, being in Calcutta, through the Influence of the Supreme Court, he denies me Obedience.—I am to pray, that Government will take Meaſures to procure me the Payment of this juſt Debt.

Santrum Chuckerbutty, Inhabitant of Mazah Malzy, in Pergunnah Burſoot, farmed the Pergunnah of Jahanabad and Burdwan, for the Years 1183 and 1184. A Balance of Rupees 16,000. fell due from thoſe Mahals. The Farmer fraudulently diſputed the Matter, and complained to the Burdwan Council; but thoſe Gentlemen having enquired into it, found the Demand to be juſt, and ordered the Payment to be enforced.

The ſaid Chuckerbutty, however, colluſively ſending his Nephew to Calcutta, has ſince procured himſelf to be brought down from the Country by a Warrant, and by that Artifice now evades Payment of his Balance. This Occurrence produces great Confuſion in the Moſuſſil.

Matters ſuch as this, appertaining to the Revenue, have always depended on the Dewannee Adaulut and the Nazim, and in caſe of not being ſettled by them, are referred to the Khalſa, and have not in Fact any Connexion with the Supreme Court. If People are allowed to practiſe this Fraud of taking out falſe Warrants in future, it will be productive of the greateſt Detriment to the Collections.

The ſaid Chuckerbutty is moreover forcibly in Poſſeſſion of Two Mozahs in the Pergunnah of Burſoot, procured by a falſe Claim, which he preferred for the ſame in the Supreme Court, as being his Gur Gong, and denies the Servants of Government's Authority over them. Matters of this Nature alſo have always been dependant on the Dewannee Adaulut or Khalſa, and Applications made in ſuch by intereſted People to the Supreme Court, muſt be prejudicial to the good of the Country.

Saih Chakerjea, an Inhabitant of Kuſegong in Pergunnah Jahanabad, took in farm Mazah's Gopaulbatty, &c. in the ſaid Pergunnahs, for the Years 1185 and 1186, from Kiſhenkunt Adakarrah, the Sudder Mohuddum of the Pergunnah. During the Year 1185, he fell in Arrear in the Sum of Rupees 1,400; at the ſame Time his Security abſconded, and he could neither diſcharge the Balance nor produce another Security; whereupon, in the Year 1186, the Mutzuddum, for the Security of the Revenue, took the Farm out of his Hands, and gave it to Bowanund Roy. The ſaid Chatterjeah has now inſtituted a falſe Complaint in the Supreme Court, againſt the Mohuddum and Bavanund Roy, to whom the Farm is now let, and procured Summonſes to be iſſued to them.—Such Procedure occaſions the greateſt Prejudice to the Collections, and Detriment to Government.—The Supreme Court have not in fact, any Connexion with Cauſes of this Nature, as well as the Inhabitants of the Moſuſſil are utterly unconcerned with its Juriſdiction.

One Chytan Churn, an Inhabitant of Mootah Gootaye, in Pergunnah Jahanabad, having preferred a Complaint to the Supreme Court, on a Claim to the Kaut of Kerrick Gunge, procured a Notice with a Writer to be ſent to Goluck Adaharry: In conſequence of which, the Writer went to Goluck's Houſe, and committed great Diſturbances in it.—This Matter appertains to Burdwan, or if neglected there, will be heard at the Khalſa; but has not the leaſt Connexion with the Supreme Court; the Interference of which, in ſuch a Caſe, can only prove ruinous to the Country, and impede the Collections.

Luckykunt Chuckerbutty having laid Claim in the Supreme Court to 1,350 Begahs of Ground in Mozah Jungle Parah, &c. has procured a Serjeant to be ſent from thence, and is violently endeavouring to take Poſſeſſion of the ſaid Ground.—The Ground in queſtion is Revenue Ground, which is regiſtered in the Account of Government, and the ſaid Perſon has not any Concern in it; notwithſtanding which he is now about to obtain Poſſeſſion of it, through the Influence of the Supreme Court.—This is a Cauſe likewiſe which comes under the Dewannee Adaulut and Khalſa, and no wiſe has any Relation to the Supreme Court.

Pertaub Roy, Inhabitant of Bodychundpore, has complained againſt Buddul Chund Roy, in the Supreme Court, upon a Diſpute between them regarding a Farm, and procured a Summons to be iſſued to that Perſon.—This Procedure, is irregular and throws the Country into Confuſion.

Lucky Narrain Chatterjeah, Sub-Farmer of Mozah Ghazypore and Sunnemooty, in Pergunnah

Balcah, has complained in the Supreme Court againſt Goverdoon Numrah and other Ryots, on a Claim of Balances due from them, and procured Summonſes againſt them, under which he creates great Diſorders in the Country.—This is a Caſe the ſame as the foregoing, that does not concern the Supreme Court, but depends on the Dewannee Adaulut and Khalſa.

Gunge Narrayne Motre, Inhabitant of Mozah Boyepottah in Pergunnah Summerſhahy, in the Year 1185 took in farm Mozah Hendah Meerpore, in the ſaid Pergunnah, for a Term of Two Years. Afterwards one Mehauder Roy, having a Gurgong in the ſaid Mazah, complained to the Burdwan Council, and procured the Form of it to be granted to him; whereupon Gungarrain leaving a Balance of 550 Rupees unpaid, has preferred a Complaint in the Supreme Court againſt Juggutnarrayne Metre, the Sudder Mohuddum, and is about to ſummon him.—This is alſo irregular, for Cauſes of this Nature can never come under the Supreme Court.

Prawn Chund Chowdry, Inhabitant of Mazah Satregatchy in the Year 1185, took in farm Mozah Barry Parrah, &c. in Pergunnah Bagrah, on an Engagement for Two Years, and incurred a Balance of 750 Rupees, upon the Firſt Year. Failing moreover in the Diſcharge of the Revenue of the preſent Year, the Sudder Mohuddum ſent a Tachildar into the Moſuſſil, to ſecure the Collections; but in conſequence hereof, the ſaid Chowdry is preparing to complain againſt him in the Supreme Court, and to ſend him a Lawyer's Chit.

By the Iſſue of Warrants, Summonſes, and other Interferences, proceeding from the Supreme Court, in Matters regarding the Burdwan Province, the greateſt Prejudice is to be feared to the Collections. Any Defaulter who has an Inclination to protract Payment, finds a Pretence, and withholds what is juſtly due from him.—Complaints and Cauſes of this Kind, have from ancient Time belonged to the Dewannee Adaulut and Nizamut, or if not decided there, come before the Khalſa. They have not the leaſt Relation to the Supreme Court.

The Inhabitants of the interior Country of Bengal, are totally unacquainted with the Forms and Cuſtoms of the Engliſh Law, with the Language and Phraſes of the Engliſh Lawyers, and with the Offices of Sheriff, and other Officers, who are all Engliſh. When Compulſion is offered to any Perſon in the Moſuſſil, they threaten with Habeas Corpus, and Damages; but what an Habeas Corpus is, what are Damages, what Warrants, what Summonſes, no one of them can tell; ſuch Proceſſes can never ſuit with the Inhabitants of Bengal.—Diſhoneſt People take the Advantage, by complaining to the Supreme Court, to procraſtinate Payment of their Debts, and excite Diſorders and Diſturbances.

It is the Cuſtom in Bengal, whenever the Farmers, Yetmaunders, or Currumcherries, have failed in diſcharging their Revenue, to exerciſe Severities upon and enforce Payment from them. If any Perſon complains to the Head of the Khalſa, the Mutſuddies examine the State of his Accounts, and deliver him over to the Charge of the Officers of the Zemindar, that others may not be encouraged to make Objections to the Payment of their Revenue in the Dewannee Adaulut or the Nizamut, and in the Khalſa; where the Vakeels of the Zemindars and Officers of Government are all of this Country, every Matter, great or ſmall, can be decided with Facility.—I am to pray therefore, that the Gentlemen who are Rulers of the Country, will order, that no Cauſes relating to Burdwan, may in future be tried any where but before the Dewannee Adaulut, the Nizamut, or the Khalſa, which will be the Means of providing for the Welfare of the Country, and prevent deſtructive Conſequences that will otherwiſe happen to it, as well as to the Concerns of Government.

Tranſlated.

(Signed) Wm. Chalmers,
Perso. Tranſr. to Khalſa.

GENERAL APPENDIX, Nº 27.

Letter from the Chief and Council at Moorſhedabad.

Gentlemen,

AGREEABLE to your Commands of the 11th June, Jagurnaut, the Couſin of the late Zemindar of Hatinda, is arrived at Moorſhedabad: But we think it our Duty to acquaint you, what Method he has taken to elude the Spirit of your Orders.

At the Time of his leaving Calcutta he recommended to Beyeſſer, the Younger Wife of the Zemindar Dhurneedur Roy, who accompanied him, to take up her Reſidence in Chinſurah, that ſhe might effect thoſe Purpoſes which he was prevented from executing by being ſent to the City. Accordingly, ſhe has inſtituted a vexatious Suit againſt Shaumroy, the Naib of the Pergunnah, in the Supreme Court—In conſequence of which he has been detained in Calcutta, at a Time his Preſence was not only much wanted in the Moſuſſil, but requiſite for the Settlement of the preſent Year's Revenue.

As her Motive for being left at Chinſurah was evidently to throw Obſtructions in our Way, by taking out Warrants from the Supreme Court againſt the Naib, we beg Leave to ſubmit to your Judgment what Meaſures to take to oblige this Woman to leave Chinſurah, or to deſiſt from ſuch improper Conduct.

We have the Honour to ſubſcribe ourſelves with the greateſt Reſpect, &c.

(Signed)
Ed. Baber, &c.
Council.

Moorſhedabad,
the 26th July 1779.

Extract of a Letter from the Chief and Council at Moorſhedabad to the Governor General and Council, dated 17th September 1779.

We have not been able to make the Settlement of Hatindah, on account of the Abſence of Sam Roy the Gomaſtah; who, we informed you, Gentlemen, was ſummoned to Calcutta, in conſequence of a Complaint preferred to the Supreme Court by the Widow Bergiſſery. Nor is this the only Inconvenience which is ſuffered by this Conduct of hers and Iagernaut. It ſubjects the Company to a material Injury.

Extract of a Letter from the Governor General and Council to the Chief and Council at Moorſhedabad, dated 17th September 1779.

We ſee no preſent Cauſe to compel the younger Ranny of Hatinda to repair to Moorſhedabad while ſhe is under a Foreign Juriſdiction. The Purpoſe for which you ſent for Jagernaut: as ſtated in your Letter to us of 6th May laſt, may be fulfilled without her.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 15th February 1780.

Gentlemen,

We have been honoured by the Receipt of your Commands, dated the 17th Inſtant; and in obedience thereto, have the Pleaſure to ſend you a Plan and Section of a Building for the Treaſury.

Your Orders for letting the Zemindarry of Hatinda to farm, ſhall be obeyed, and it hath been advertiſed already; but permit us, Gentlemen, to obſerve, that the advanced Seaſon of the Year will be ſome Objection to thoſe who may be willing to deliver in Propoſals.

We beg Leave to ſend you, Copy of a Petition and Affidavit delivered to the Supreme Court by the younger Widow, whilſt ſhe was in Calcutta. We underſtand, that no particular Attention hath been ſhewn to this Petition by the Supreme Court; but we beg Leave to inform you of the Circumſtance, as it appears to us very neceſſary, Gentlemen, that you ſhould be acquainted with the Progreſs of the Zemindar's Ideas of the Supreme Court, and the Uſe they make of it. In this Inſtance, it is plain the Zemindar wanted only ſome Kind of Authority, no Matter what, from the Court, to intimidate her Opponent and the Ryots; and when ſhe found that her Rights to the Zemindarry would not be heard, the Thoughts of Letters of Adminiſtration was ingeniouſly ſuggeſted to her.

We did imagine, Gentlemen, from your Orders of the 20th ult. that it was your Pleaſure the Petition of Jehanguirepore ſhould take place; and as it plainly appeared to us, that Coſſinaut's whole Aim was bent on preventing us paying Obedience to your Commands, we had determined, previous to the Receipt of your preſent Commands, to make the Partition without the Aſſiſtance of Coſſinaut or his Agents; we accordingly informed the Agents of Coſſinaut of our Intention, and fixed a Day, in which we gave them Time again to conſult their Principal, for the Partition of the Zemindarry. On the Day preſcribed, they attended our Summons, and again repeated the Sentiments we have already had the Honour to acquaint you with; upon which we directed the Canongoes to draw the Share of Coſſinaut, and to lodge it in their Office. The reſt of the Brothers took their's, and thus the Diviſion has been made.

We have the Honour to be, &c.

Moorſhedabad,
27th Sept^{r}. 1779.

(Signed) Edw^{d}. Baber,
&c. Council.

(Ex^{d}.)
(Signed)
E. E. Burgeſs,
Secry.

To the Honourable Sir Elijah Impey, Knight, Chief Juſtice, and his Companions, Juſtices of the Supreme Court of Judicature at Fort William in Bengal.

The humble Petition of Bridgoo Sevree, Widow,
Sheweth,

That Dhurannee Dhur Chowdry, late of Bahahpore, in the Province of Bengal, who was, as your Petitioner believes, a Britiſh Subject, by farming Two certain Zemindarries under the United Company of Merchants trading to the Eaſt Indies, for which he paid a ſtipulated Rent, deceaſed, departed this Life within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, as your Petitioner believes inteſtate, no Will having as yet come to Hand; whereof and foraſmuch as your Petitioner is a Britiſh Subject, by being an Inhabitant of the Town of Calcutta, and is the Widow of the ſaid deceaſed, and deſirous that his Eſtate and Effects ſhould be duly adminiſtred unto for the Benefit of the concerned;

Your Petitioner therefore moſt humbly prays, That it may pleaſe your Lordſhips to grant unto her Letters of Adminiſtration to all and ſingular the Goods and Chattels, Rights and Credits of the ſaid Deceaſed; for the due Execution whereof your Petitioner is ready and willing to give ſuch Security as His moſt gracious Majeſty's Charter direct, and your Lordſhips ſhall award.

And your Petitioner ſhall ever pray.

The Mark of Bridgoo Sevree.
×

A true Copy.
(Signed)
W^{m} Jackſon,
Regiſter.

Bridgoo Sevree maketh Oath, and ſaith, That the Subſtance, and Matters of Facts contained in her Petition hereunto annexed, are true. And this Deponent further ſaith, that the Amount of the Eſtate and Effects of the ſaid Dhurannee Dhur Chowdry, the Perſon named in the ſaid Petition, which are likely to come to this Deponent's Hands, ſhould ſhe be appointed Adminiſtratrix to the ſaid Eſtate and Effects, and for which ſhe herewith prefers her Petition, will not, to the beſt of this Deponent's Knowledge and Belief, amount to more than the Sum of Fifty Thouſand Sicca Rupees.

Sworn the 9th Day of July
1779, before us,

The Mark of
×
Bridgoo Sevree.

(Signed) Nich^{s}. Jebb.

L. S. }
L. S. } Commiſſions.

A true Copy.
(Signed)
W^{m}. Jackſon,
Reg^{r}.

GENERAL APPENDIX, N° 28.

The Schedule to which the annexed Writ refers.

BY virtue of the annexed Writ to me directed, I do humbly return and certify to the Honourable Sir Elijah Impey, Knight, His Majeſty's Chief Juſtice, and other His Majeſty's Juſtices of the Supreme Court of Judicature at Fort William in Bengal, that, in obedience to the ſame Writ, and the Commands therein contained, on the 18th Day of November laſt paſt, I made and iſſued my Warrant, under my Hand and Seal, to Royan Cawn and Hawdy, my Bailiffs, and each of them, commanding them the ſaid Royan Cawn and Hawdy, to arreſt and ſeize Ramkiſſore Surmona, in the ſaid Writ named, if he ſhould be found within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, and him ſafely to keep, ſo that I might have his Body before His Majeſty's ſaid Juſtices of the Supreme Court of Judicature at Fort William aforeſaid, to anſwer to Coſſinaut Doobee, in a Plea of Treſpaſs on the Caſe, for the Payment of Sonaut Rupees, Two thouſand One hundred and One, as in ſuch Writ is mentioned. And I myſelf was thereby commanded, and I do further humbly return and certify, that my ſaid Bailiffs, in virtue of ſuch Authority as aforeſaid, proceeded to the Execution of the ſame Writ, and at Dinagepore in the Province of Bengal, on the 14th Day of December now laſt paſt, did ſeize and arreſt the ſaid Ramkiſſore Surmono, above and in the ſaid Writ named, who readily ſubmitted to the Arreſt, on being informed, that it was by virtue of a Warrant from the Supreme Court, and the Warrant being ſhewn to him. And I do further return and certify, that while the ſaid Ramkiſſore Surmono was in the Cuſtody of my ſaid Bailiffs, and that they my ſaid Bailiffs were proceeding with him (ſo being in Cuſtody as aforeſaid) towards Calcutta, that is to ſay, on the ſaid 14th Day of December, a Perſon whoſe Name is to me and my ſaid Bailiffs unknown, and who called himſelf a Vakeel or Agent of Rajah Bodinaut, of Dinagepore, with upwards of Forty Men, who appeared to be Chubdars, Hircarrahs, and Peons, whoſe Names are to me and my ſaid Bailiffs likewiſe unknown, and who ſaid they were in the Service of the ſaid Rajah Bodinaut, and acted under his Orders, came, and violently laid hold of him the ſaid Ramkiſſore Surmono, and reſcued him from the Cuſtody of my ſaid Bailiffs, and overpowered them, my ſaid Bailiffs, and ſeized and impriſoned their Perſons at Dinagepore aforeſaid; and my ſaid Bailiffs being ſo ſeized and impriſoned, were kept and detained in Priſon at Dinagepore aforeſaid, during the Space of One Night, and were then carried before the ſaid Rajah Bodinaut, who told my ſaid Bailiffs that he would not allow or ſuffer any Warrants from the ſaid Supreme Court to be executed within the Chucklah or Diſtrict of Dinagepore, and told my ſaid Bailiffs to depart if they meant to ſave their Lives; by Reaſon of which Premiſes, and the Reſcue ſo made as aforeſaid, my ſaid Bailiffs were not able to keep and detain the ſaid Ramkiſſore Surmono in their Cuſtody nor have I or my ſaid Bailiffs been able, ſince the Reſcue aforeſaid, to retake or again arreſt the ſaid Ramkiſſore Surmono. Given under my Hand, and dated this 20th Day of December, in the Year of Chriſt One thouſand Seven hundred and Seventy-nine.

The Anſwer of
J. H. D'Oyly,
Sheriff.

Read 27th January 1780.
(Signed) James Forbes,
Read^{g} Clerk.

A true Copy.
(Signed.) R^{d} Litchfield,
Prothonotary.

To George Hodgſon, Eſq; Secretary, &c.

Sir,

You will pleaſe to communicate to the Honourable Board, the following Information, which I preſume is expedient ſhould immediately be made known to them.

That a Motion was this Day made in the Supreme Court, that an Attachment might iſſue againſt Rajah Bodinaut, the Zemindar of Dinagepore, for an high Contempt of the Authority of the Court; on the Grounds of an Affidavit of a native Officer, belonging to the Sheriff, ſtating, that Two Officers were ſent into the Province of Dinagepore, with a Writ againſt Ram Kiſſore Sarmonee, at the Suit of Coſſinaut Doby, for the Sum of Sonaut Rupees Two Thouſand and One—That they proceeded to the Execution of the Writ; and on the 14th December laſt, arreſted the Defendant, who readily ſubmitted—That afterwards, on their proceeding towards Calcutta, the Vakeel of Rajah Bodinaut, and about Forty Men, being Chubdars, Hircarrahs, and Peons, ſurrounded them, and laid hold of the Defendant—That the Officers endeavoured to detain him, but were overpowered by the

Perſons belonging to the Rajah—That they were carried to the Houſe of the Rajah, and confined One Night—That the next Morning they were carried before the ſaid Rajah, who was informed by the Officers of the Sheriff, that Ram Kiſſore had been arreſted by virtue of a Writ from the Supreme Court, which was produced to him—That the Rajah anſwered, He did not value the Proceſs of the Court; that he had received Orders from the Governor General and Council, not to ſuffer any Warrant to be executed in his Diſtrict; and told the Officers to go and tell the News to thoſe that ſent the Warrant; that he had formerly ſuffered Proceſs to be executed in this Diſtrict, but as they were only Two black Men, they might depart, otherwiſe, had they been Europeans, they would have been treated in a different Manner. The Court refuſed an Attachment in the Firſt Inſtance, but ordered a Rule to ſhew Cauſe, on the 10th Day of March next, why an Attachment ſhould not iſſue againſt him; and directed a ſimilar Clauſe to be inſerted as in the Rules made on Mr. Swainſton, Lieutenant Bomford, and myſelf; and that the Sheriff ſhould, in like Manner as he had done in thoſe Caſes, wait on the Governor General and Council, in their public Capacity, with a Copy of the Rule, and the laſt Clauſe in His Majeſty's Charter, that they might go Home on Record on their Proceedings.

I ſhall endeavour to procure a Copy of the Affidavit, that the ſame may be laid before the Honourable Board.

I am, &c.

Calcutta,
27th January 1780.

(Signed) N. Naylor,
Att^y. to the Honble. Company.

GENERAL APPENDIX, Nº 29.

Report of the Commiſſioner of Law Suits, ſhewing the Manner of conducting Suits againſt the Officers of Government, and proving the Impoſſibility of defending any of them before the Supreme Court of Judicature; dated March 7, 1779.

To David Anderſon, Eſq; Preſident, and Members, of the Provincial Council of Revenue for the Diviſion of Calcutta.

Gentlemen,

HAVING received Copy of the Evidence and Exhibits in the Cauſe Durgachurn Chuckerbutty againſt the late Calcutta Committee, and their Officers; I beg leave to tranſmit them encloſed, together with Copies of the Plaint, Anſwer, and Notice of Juſtification.

The Plaintiff was Security for Babooram Roy, the Farmer of Paunchaundgaung; Babooram died, about the End of the Year 1182, and his Brother, Kiſſendeb Roy, took out Letters of Adminiſtration to his Eſtate in the Supreme Court. The Farm being in Arrears, Rupees 11,825. 10. 18. (as appears by your Proceedings of 23 July 1777) Kiſſendeb Roy was taken into Confinement: He in conſequence ſued the Committee in the Supreme Court for falſe Impriſonment; and by a Judgement, paſſed on the 14th November 1777, recovered 2,000 Rupees Damages. Recourſe was then had to Chuckerbutty the Security, who being confined by the Committee in conſequence of a Reſolution of 20th July laſt, paid the Demand in order to procure his Liberty; and thereupon brought this Action for Treſpaſs and falſe Impriſonment. The Suit was defended on the Part of the Company. The General Iſſue of Not Guilty was pleaded, and a Notice of Juſtification was given in, ſtating, that the Plaintiff was Security for the Farm of Paunchaundgong; that the Farm was in Arrear; that the Farmer being Dead, and Means having been ineffectually taken to compel his Adminiſtrator to pay, Recourſe was had to the Plaintiff, as Security, and he was impriſoned by the Defendants, as Members and Officers of the Calcutta Committee of Revenue, and aſſerting at the ſame Time, their Right and Authority to collect the Revenue, and to impriſon in Default of Payment.

The Plaintiff, at the Trial, proved his having been confined for Fifteen Days, during which Time he was allowed to go out to eat his Victuals; he proved alſo the Payment of Rupees 10,450. 11. 17. the Balance of Revenue demanded from him.

On the Part of the Defendants it was proved, That the Plaintiff was Security for the Farm under the uſual written Engagements (Tranſlations of which, viz. the Cabooleat, Doulpottah, Kiſtbundee, and Security Paper, go encloſed.) It was proved by the Evidence of Ram Sunder Rucket, that the Farm was originally taken by the Plaintiff at 45,000 Rupees, and that he deſired the Witneſs to draw out the Leaſe *in the Name* of Babooram Roy, and place him as Security. Other Evidence was ready to have been examined, to eſtabliſh that the Plaintiff was not only Security, but the Perſon actually intereſted in the Farm; but this was objected to, and the Counſel were not allowed to go into the Proof of his being the actual Farmer, becauſe the Notice of Juſtification ſtated the Plaintiff *only as Security*.

In order to eſtabliſh a Balance due from the Farm, Ramneedy, the Writer or Accountant to the Farm, was called. He declared, that "the full Amount due by the Agreement, was not paid," but as he ſpoke of the Accounts which he had not to produce, his Evidence went no further than to ſhew *generally*, that the Farm was in Arrears; for he had delivered the Accounts to Kiſſendeb Roy, the Adminiſtrator, who, although repeatedly ſubpœned, did not appear at the Trial, and it is a Principle of the Law of England, that a Witneſs in giving Teſtimony, muſt not ſpeak of a Paper without either producing it, or eſtabliſhing the Impoſſibility of producing it, and that the very beſt poſſible Evidence is in every Inſtance required; the Declaration of this Witneſs from Memory, came thus to be conſidered as no Evidence, at the ſame Time, that as the Party who had the Accounts kept out of the Way, it was impoſſible to procure ſtronger Proof from the Plaintiff's People, of the Exiſtence of the Debt.

Finding it impoſſible to prove the Farm to be in Arrears by Means of the Plaintiff's People, we called the Two principal native Accountants of your Committee, viz. Balloo Doſs and Ram Sunder Rucket, who are particularly employed in keeping the public Account of the Revenue of your Diviſion; the former in the Perſian, and the latter in the Bengal Language, ſo as to form a Check upon each other. And as it is neceſſary that all Papers and Accounts produced in the Court ſhould be rendered into Engliſh, Tranſlations of the Accounts were ready to have been given in. Balloo Doſs, as you will obſerve from his Evidence, ſwore, that a Balance was due from the Farm in the Year 1183, the laſt Year of the Leaſe, and the ſame for the Arrears, of which the Plaintiff was impriſoned; and in Confirmation of this, produced the Perſian Accounts and Tranſlations marked (A) (B) taken from the public Office: But on being queſtioned, he ſaid, That he was only preſent ſome Times, when the Caſh was actually paid on account of the Revenue; that the Money was commonly paid to the Banker or Caſh Keeper, from whom he uſed to take an Account of it; his Teſtimony was thereupon conſidered as of no Effect, becauſe it appeared not to be the beſt poſſible Evidence, or rather no Evidence at all; and it was required that the Banker and his Books ſhould be produced. This Man had been lately removed from his Office by your Committee, and he did not attend, although Subpœnas were iſſued to him. The Perſian Accounts therefore abovementioned, as well as the Bengal Accounts, marked (C) (D) (E) were not admitted to be exhibited or given in Evidence in the Cauſe. There is great Reaſon to doubt whether, even if the Attendance of the Caſh Keeper with his Books, had been procured, he could have given ſuch Teſtimony as would not, according to the ſtrict Principles of Engliſh Law, have been equally open to Exception; for, in order to have arrived at the very beſt poſſible Evidence of the actual Payments, they muſt have been traced through Shroff and Podars, down to the Tellers of Money and Sorters of the Coin, inſomuch as the Entries made in the Books of the former, whether Caſh Keepers, Shroffs, or Podars, are only taken from the Memorandums or Information furniſhed by the latter.

It was urged in Support of theſe Accounts, that they were the public Records of the Revenue, kept by public Officers, and until their Authenticity was impeached, ought to be received, prima facie, as good Evidence; that they had always been held in this Light according to the Cuſtom of the Country; that the Plaintiff had entered into the Engagement to pay the Revenue of the Farm long before the paſſing of the late Act of Parliament, or the Eſtabliſhment of the Supreme Court; that being entitled to all the Advantages of the Revenue, Laws, and Cuſtoms, he ought, on the other hand, to ſubmit to the Rules which they impoſed on him; that unleſs the Accounts of a public Office, ſupported by the Affidavit of the Officers who kept them, were received as Evidence, it was hardly poſſible to eſtabliſh a Revenue Debt; that it was not unreaſonable to require Credit to the Accounts of a public Office, when the Legiſlature, ſenſible of the Impoſſibility of eſtabliſhing Debts to Merchants, if every Item in their Tranſactions required to be traced up to its Source, had allowed a Merchant's Account, accompanied with the Affidavit of his Book-keeper, taken before the Lord Mayor, that he believes the Account to be true, to be good Evidence of a Debt in any of the Colonies; that if this was found neceſſary, or was conſidered as reaſonable by the Parliament, in the Caſe of an Individual, it ought, a fortiori, to be much more ſo in the Caſe of public Officers.

In Oppoſition to this, however, it was inſiſted that the Act of Parliament above alluded to, or indeed any other Act of Parliament, did not relate to the preſent Caſe; that allowing, even that according to the Practice of the Revenue ſuch Evidence ought to be received, yet, in the preſent Inſtance, it was not admiſſible. For it is a Maxim of the Law of England, that no ſpecial Cuſtom can be given in Evidence by the Defendants, unleſs pleaded; and therefore, as this Point was not ſtated in the Notice of Juſtification, the Defendants were not at Liberty to go into the Proof of it.

The Juſtneſs of this Maxim, with relation to the Practice of the Courts of Law in England is well known; and it is founded on this Principle, that unleſs a Party has Notice of his Adverſary's Intention of ſetting up a ſpecial Cuſtom, he cannot come prepared to conteſt it. How far the Plaintiff in the preſent Cauſe was entitled to the Benefit of it, is a Point which it does not belong to me *now* to queſtion; conſidering, however, that the unfavourable Deciſion in this Cauſe may in ſome Meaſure be owing to its not being inſiſted on in the Juſtification, that ſuch Credit was, according to the Cuſtom of this Country, to be given to the Accounts of Revenue kept by public Officers, it may be proper, in Juſtice to myſelf, to declare, that I had no Reaſon to imagine it was neceſſary to have ſtated this in a Notice of Juſtification. The Juſtification, in the Caſe of Comauludeen, the only Cauſe I believe decided in Favour of Revenue Officers, conſiſted of only one Side of Paper, and ſtated no Cuſtoms; yet it is well known that the Examination into the Cuſtoms of the Country took up ſeveral Days. Beſides, the preſent Plaintiff being a Native of this Country, and a Farmer, I confeſs I never imagined that it was neceſſary to give him Notice of the Cuſtoms of *his own* Country, and to tell him that the public Accounts of Government were always conſidered as ſufficient prima facie Evidence of a Balance of Revenues according to his Engagements. Indeed, I was convinced, from his own Admiſſions taken down before the late Committee, and from the Knowledge I had of what he conſidered to be the ſtrong Side of his Caſe, that he himſelf never thought of diſputing the Juſtneſs of the Sums entered in the Account of the Farm, but truſted entirely to ſhewing his Right to a Remiſſion in the Rent, which he had claimed, and which had not been granted to him.

I muſt beg Leave alſo to obſerve, that as the Common and Statute Law of England has been formed and modelled to the Situation and Manners, not of this diſtant and conquered Province, but of a free and independent People, almoſt every Uſage or Practice with reſpect to the Revenue of Bengal, muſt, when meaſured by that Law, be a ſpecial Cuſtom. And therefore, according to this Maxim, it becomes neceſſary, in every Inſtance, to ſet out and juſtify the Proceedings and Practice of the Officers of this Government, in a ſpecial Notice of Juſtification; and to procure this Notice ſtep by ſtep, by ſuch Evidence as the ſtrict Maxims of the Engliſh Law require. The Probability of Succeſs in defending Actions of Treſpaſs on this Plan, may be eſtimated by paſt Experience, when it is remembered that, except in the ſingle Inſtance of Comauludeen, every Notice of Juſtification, given in as a Plea on the Part of the Officers of Government, has, even on the Face of it, been found bad and defective.

As the Plaintiff in this Cauſe was deſcribed in the Notice of Juſtification, only in his oſtenſible Character of Security, all Evidence (as has been obſerved) of his being the actual Farmer, was precluded; and although in the Caſe of a Farmer who agreed to pay ſo much Revenue, it might be ſufficient to eſtabliſh the Leaſe, and it would thereupon be incumbent on him to ſhew, that he had paid the Rent; yet the Court were pleaſed to view the Caſe of a Security in a different Point of View. For having only engaged to pay the Revenue, in the Event of the Farmer's falling in Arrears, it was ſaid, that he could not be deemed in any Reſpect liable, until it had been eſtabliſhed, that this Contingency had happened, and that the Farm actually was in Arrears.—While the Accounts of Revenue kept by your Officers are not conſidered as Evidence of a Debt, it ſeems difficult however to point out a Criterion (unleſs by the Confeſſion of the Party) by which it is poſſible to eſtabliſh a Farm to be in Arrears: Becauſe, to ſhew, that the whole Rent has not been diſcharged, or that *not more* than ſo much has been paid, ſeems to require no leſs than the Proof of a Negative.

In the Courſe of the Trial, Exception was taken by the Court, in the Manner to which the Engagements for the Farm were drawn out; and it was particularly obſerved, that the Plaintiff in the Paper of Security executed by him, undertook only to pay according *to Kiſtbundee*; that the Kiſtbundee was only for One Year; viz. 1180, and therefore, that, in a Court of Law, he was liable only for the Revenue of that Year. The Court were alſo pleaſed to expreſs their Surprize, that Deeds written in the Bengal Language, and according to what they conſidered very looſe and imperfect Forms, ſhould continue to obtain in Preference to (what they deemed far more perfect) Engliſh Leaſes.

Being unable, according to the Strictneſs of the above Conſtruction, to prove, that the Plaintiff was Security for the Revenue of the Year 1183; and being precluded, by having ſtated him as Security, from entering into the Proof of his being the Perſon actually intereſted in the Farm; being prevented, by the Non-attendance of the Plaintiff's People, from eſtabliſhing a Balance by their Accounts of the Farm, at the ſame Time that it could not be proved, that theſe Witneſſes were kept away by the Plaintiff; and the Accounts produced by your Officers, together with their Depoſitions as to *their Belief*, that they were juſt, not being admitted, Judgment was given in favour of Durgachum Chuckerbutty, the Plaintiff, for the Amount which he had paid, together, with Intereſt, and additional Damages for falſe Impriſonment, ſo as to make up the Sum of Sicca Rupees 12,273, excluſive of Coſts of Suit.

I have thought it neceſſary, for your Information, to ſtate thus fully the Circumſtances of a Cauſe, which involved many important Queſtions. I have only one further Obſervation to make: The Cauſe under Conſideration furniſhes an Example of the Manner in which the Members of a Provincial Council of Revenue are ſued for Acts of Authority, done in the Exerciſe of their official Duty and Functions, and in the Collection of the Revenue. The Act is ſtated as a Treſpaſs, they themſelves are ſtated, and indeed through the whole Trial are conſidered, not as public Officers, but ſimply as Individuals. On the Part of the Plaintiff, therefore, it is neceſſary only to procure an Impriſonment, in order to intitle him to a Judgment for Treſpaſs. But the Defendants have to ſet forth their Authority in legal and technical Terms, expoſed to loſe their Cauſe on account of an Error in Form. They have next to prove this Authority by Means of the looſe and undefined Eſtabliſhments under which the Provincial Councils are inſtituted; and ſhould they come off ſucceſsful in this ordeal Trial, they have then to eſtabliſh the Merits of the Caſe by ſuch Evidence as a Court of Engliſh Law requires. It has been ſhewn, that the public Accounts of a Cutcherry will not be conſidered as ſuch Evidence, unleſs each Article be previouſly eſtabliſhed by excentric Proof; and it appeared alſo, in the preſent Cauſe, that the Provincial Council or Committee being ſued as Individuals, their Proceedings come to be conſidered as the mere Allegations of the Party, which might furniſh Proofs againſt them, but could not be taken in their Favour: For in the Courſe of this Trial, the Proceedings of the Calcutta Committee were produced, and on this Principle were objected to, as Evidence, by the *Bench*.

I am,
Gentlemen,
Your moſt obedient,
humble Servant,
(Signed) George Bogle.

Calcutta.
7th March 1779.

A true Copy.
W. Haverkam,
Act^{s}. Secr^{y}.

GENERAL APPENDIX, N° 30.

Extract of the Proceedings of the Preſident and Council at Fort William in Bengal, the 23d Nov. 1773, containing a Plan for the future Management of the Revenues of Bengal and Bahar.

Fort William, the 23d November, 1773.

Rev. Dep^{t}
Tueſday.

At a Conſultation,

PRESENT,

The Honourable Warren Haſtings, Eſq. Preſident.

William Alderſey,
Philip Milner Dacres,
James Lawrell,
Henry Goodwin,
John Graham,
George Vanſittart.
Eſquires.

The Roy Royan attending.

THE Board having at ſeveral Meetings ſince the Receipt of the Harcourt's Advices, debated on the various Means which occurs to them for carrying into Execution the Intentions of the Honourable Court of Directors, for the future Controul and Management of the Revenue, and for the Removal of the Collectors from their Stations; and having maturely conſidered and weighed all the Conſequences which may attend every Meaſure that may be adopted, are of Opinion, that the immediate Removal of the Collectors, or the Eſtabliſhment of any conſiſtent and permanent Syſtem, without ſuch preparatory Meaſures as might prevent the bad Conſequences of too ſudden a Change, and gradually introduce a more perfect Form of Superintendancy, would be hazardous to the Collections, and bring at once a greater Weight of Buſineſs on the Members of the Superior Adminiſtration than they could poſſibly ſupport.

On theſe Grounds they do propoſe the following Plan for a future Eſtabliſhment, to be adopted and compleated by ſuch Means as Experience ſhall furniſh, and the final Orders of the Honourable Company ſhall allow.

1ſt. That the Diſtricts which form the preſent Collectorſhip ſhall remain, with ſuch Variations as ſhall render them more eaſy of Controul, and more ſubſervient to the general Syſtem.

2d. That each Diſtrict be ſuperintended by a Dewan or Aumil, except ſuch as have been let entire to the Zemindars, or their reſponſible Farmers, who ſhall in ſuch Caſe be inveſted with that Authority.

3d. That a Committee of Revenue be formed at the Preſidency, which ſhall conſiſt of Two Members of the Board, and Three ſenior Servants below Council, for conducting the current Buſineſs of the Collections, in the Manner following.

4th. The Committee ſhall meet daily; they ſhall form Reſolutions and Orders for the current or ordinary Buſineſs of the Diſtricts, and prepare, Weekly or Monthly, a ſeparate State of each Diſtrict; an Account of the Demands, Receipts and Balance of each Diſtrict, and a Report of ſuch extraordinary Occurrences, Claims, and Propoſals as may require the Orders of the Superior Council, which are to be laid before them in their Revenue Department.

5th. The Dewans ſhall correſpond with the Preſident of the Committee and the Roy Royan, and ſend their Bills, Chelans, and Accounts to them: Theſe ſhall be regiſtered in the proper Offices of the Khalſa, and ſuch Tranſlations and Abſtracts made of them as ſhall be neceſſary for the Inſpection of the Committee.

6th. All Orders to the Dewans ſhall be tranſlated and written in the Name of the Preſident of the Committee and the Roy Royan, to be ſealed with the Seal of the Khalſa, and ſigned by them.

7th. Occaſional Commiſſioners or Inſpectors ſhall be deputed to viſit ſuch of the Diſtricts as may require a local Inveſtigation—Theſe ſhall be choſen from the Company's covenanted Servants, not by Seniority, but by the free Election of the Board: They ſhall be Men qualified for this Truſt, by a Knowledge of the Perſian or Indoſtan Language, and by a Moderation of Temper:—An Objection made by a ſingle Member of the Board, to any Perſon propoſed, as wanting of theſe Requiſites, ſhall be a ſufficient Bar to his Appointment, without Proofs being required to ſupport it.—The Commiſſioners ſhall receive an Allowance of 1,500 Rupees per Month, for their Trouble, and for their Expences during the Deputation.—They ſhall not be allowed to take with them their private Banians, nor any Servants or Dependants, without expreſs Leave in Writing of the Board—They ſhall be forbid, on Pain of Suſpenſion from the Service, to lend or borrow Money, to take any Concerns in Farms, Talucks, or Securities, or to purchaſe or ſell, or contract to purchaſe or ſell, any Article whatever in the Diſtrict; nor ſhall they ſuffer any of their Servants or Dependants to do either.

8th. Strict Orders ſhall be given in Writing, to every Officer commanding the Sepoy Stations, forbidding them to detach any Sepoys, either ſingly or in Parties, for any Purpoſe whatever, beyond their Quarters, except when required on Military Service; to puniſh or confine any Perſon not appertaining to his Command; to lend or borrow Money; to take any Concerns in Farms, Talucks, or Securities; to purchaſe or ſell, or contract to purchaſe or ſell, any Article whatever, either in the Diſtrict in which he reſides, or in any other, or to have any Dealing in any Kind whatever with any Dewan, Zemindar, Farmer, Ryot, or other Dependant or Officer of the Revenue. The ſame Orders ſhall be publiſhed to be obſerved by the other Officers, both European and Native, of the Battalion, and to all the Sepoys and Followers of it. It ſhall be declared, that the Commanding Officer ſhall be reſponſible for any public Breach of theſe Orders by any Perſon whatever under his Command: And the Governor ſhall have the Power of calling them, without aſſigning a Reaſon, either to them or to the Board.

9th. The Officers of the Phouſdarry Adaulut ſhall be forbid to hold Farms, or other Offices, in the Moſuſſil; they ſhall be obliged to reſide, on Pain of forfeiting their Employments; and it ſhall be declared criminal in any Perſon to officiate in the Courts of Adaulut, in the Capacity of Naibs or Gomaſtahs, for Principals non-reſident.

10th. All Complaints of the Ryots, or others, againſt the Dewans, Farmers, Zemindars, or other public Officers of the Revenue, ſhall be received and decided by the Committee, or by Perſons expreſly appointed by them for that Purpoſe.

15th. For the Means of carrying the above Plan into Execution, in ſuch a Manner, and at ſuch Times as may be found moſt convenient for effecting the Purpoſes intended by it; and preventing the ill Conſequences to which the Collections would be expoſed, by an unprovident and precipitate Innovation,—Reſolved, That the following Plan be immediately adopted; to be, and to be declared to be, only for a temporary Purpoſe, and introductory to the foregoing.

1ſt. The Provinces to be formed into the following Grand Diviſions:

2d. Firſt grand Diviſion to be managed at Calcutta, and to conſiſt of the Calcutta Pergunnahs, Houghly, Hedgelee, Myſadel, Tumlook, Nuddea, Jeſſore, Mahmudſhy, with the Talucs of Contoonagur, &c. and all Lands belonging to Perſons of Credit, whoſe conſtant Reſidence is in Calcutta; but this is meant only of Lands which are their own Property, not of ſuch as they may Farm or be Security for; and even in theſe the Adminiſtration of Juſtice muſt reſt entirely with the Provincial Council, in whoſe Diviſion they may be ſituated.

3d. Second Grand Diviſion to be managed at Burdwan, and to conſiſt of Burdwan, Midnapore, Biſſenpore, Patchaet, Burbhoom, Ramgur, &c. Diſtricts under the Management of Captain Carnac.

4th. Third Grand Diviſion to be managed at Moorſhedabad, and to conſiſt of Rajeſhahi, Eaſtern and Weſtern Diviſions, Rockunpore Collectorſhip, Chunnacolly D°. Luſkerpore D°. Jehanguipore Ditto; Caus Talooks, Rajemahl, and Boglepore; including the Annexation lately made to the latter from Mongheer, Curickpore, Jungletorry, and the Diſtricts under the Management of Captain Brooke.

5th. Fourth Grand Diviſion to be managed at Dinagepore, and to conſiſt of Dinagepore, Sillborries, Purnea, Rungpore, Edrackpore, Baharbund, Coch Beighar, Ramgamatty.

6th. Fifth Grand Diviſion to be managed at Dacca, and to conſiſt of Dacca, Sylhet, Attya Cozmarry, Burbazzo.

7th. Sixth Grand Diviſion to be ſuperintended by the preſent Chief and Council at Patna, and to conſiſt of the whole Province of Bahar, excepting the ſeparated Diſtricts of Mongheer, &c. as abovementioned.

8th. The Diſtricts of Chittagong and Tippuah to remain on their preſent Footing, under the Management of a Chief.

9th. A Committee of Revenue to be inſtituted at Calcutta, for ſuperintending the Firſt Grand Diviſion, to be compoſed of Two Members of Council, and Three Senior Servants; under them a Secretary, a Perſian Tranſlator, an Accountant, and Five Aſſiſtants.

10th. Councils of Revenue to be formed for ſuperintending the 2d, 3d, 4th, and 5th Grand Diviſions; to be compoſed of a Chief, and Four Senior Servants; under them a Secretary, a Perſian Tranſlator, an Accountant, and Three Aſſiſtants.

11th. As the Detail to be conducted by the Committee at Calcutta, and ſuperſede the Neceſſity of a Superintendant of the Khalſa, that Office to be aboliſhed when the Provincial Councils have been all re-eſtabliſhed.

12th. The Regiſtry of the Khalſa is however ſtill to remain; and the Roy Royan to act therein under the collective Controul of the Council of Revenue, as at preſent, and the immediate Controul of the Governor.

13th. The Office of Auditor, and of Accomptant General, ſhould alſo continue, that the Accomptant General to have no Connection with the Committee of Revenue, further than receiving their Accounts, as he does thoſe of every other Grand Diviſion through the Channel of the Council of Revenue.

14th. A Dewan to be appointed to each of the Provincial Councils, who ſhall be choſen by the Board, either from among the preſent Dewans of the Diſtricts, or ſuch other Perſons as they ſhall deem well qualified for that Office. The Roy Royan to act as Dewan, aſſiſted by one of his Naibs, to the Committee of Calcutta.

15th. The Committee, and the ſeveral Provincial Councils, to correſpond with the Council of Revenue, and their Dewans with the Roy Royan, and to act under their Orders, in every Repect, as the Collectors do at preſent. The Perwannahs of the Revenue Council to the Dewans, will, of Courſe, be ſigned by the Governors in lieu of the Superintendant.—All Sunnuds that may be reſolved to be granted by the Superior Council of Revenue, ſhall be regiſtered by the Secretary in a Book kept for that Purpoſe, and be iſſued under the Seal of the Khalſa, and the Signature of the Governor.

16th. The Collections in the Diſtricts compoſing the Grand Diviſions, which are not the Seat of the Provincial Councils, to be managed by Naibs at ſuch Stations as they may judge neceſſary. And as the immediate Reſponſibility of their Management reſts upon the Provincial Councils, they ſhall be allowed the Recommendation of the Perſons they think moſt proper for the Truſt; but their Nomination ſhall proceed from the Board. N. B. The Committee of Calcutta, wherever Provincial Councils are mentioned, is always underſtood to be one, to avoid Repetition.

17th. The Naibs to receive their Orders from the Provincial Councils; which having been approved by the Majority of the Members, ſhall be iſſued under the public Seal, with the Signing of the Chief and the Dewan, their Correſpondence and Accounts to be addreſſed to the Chief and the Dewan, and ſealed with their Seals as Naibs. Tranſlations or Abſtracts of all ſuch Letters and Accounts to be invariably made and recorded at the public Meetings of the Councils.

18th. Each Provincial Council to be furniſhed with a public Seal for its Diviſion, and all the Seals at preſent in the Hands of the Collectors to be returned to the Preſidency.

19th. The Collectorſhip Coch Beyhar to be put upon the ſame Footing as Ramgur and Currickpore.—The Officers to receive their Orders ſolely from the Governor, and only to ſend their Accounts to the Councils of their reſpective Diviſions, for the Sake of Regularity.

20th. The Naibs of the Diſtricts under each Provincial Council to hold Courts of Dewannee Adaulut, according to the preſent Regulations, and tranſmit their Proceedings to the Provincial Councils; but Appeals in all Caſes to be allowed from them to the Provincial Sudder Adaulut of the Diviſion, without the Five per Cent. Fee—Theſe Courts of Provincial Sudder Adaulut, to be ſuperintended in Rotation by the Members who are out of the Council of Fort William; to decide ultimately on all Caſes not exceeding 1,000 Rupees (in this is included Mulgazarry Land, of which the Jumma or Produce, is not more than 1,000 Rupees; and alienated or free Lands *, of which the Jumma is not more than 100 Rupees). In Caſes exceeding that Sum, an Appeal to be, as at preſent, to the Sudder Dewannee Adaulut. In all Caſes the Provincial Councils at large may reviſe the Deciſions of the ſuperintending Member.—Complaints againſt the head Farmers, Naibs of the Diſtricts, Zemindars, and other principal Officers of the Government, relative to this Conduct in the Revenue, to be decided by the Provincial Councils, and entered on their Proceedings.—If any of them think themſelves aggrieved, they may apply ultimately to the Superior Council of Revenue at Calcutta. Sunnuds for Lands, whoſe Jumma is no more than abovementioned, may be granted by the Provincial Councils under the public Seal and the Signature of the Chief, after being regiſtered by the Secretary in a Book kept for that Purpoſe, of which a Copy ſhall be tranſmitted Monthly to the Preſidency, and a complete Alphabetical Copy Annually.

21ſt. Strict Orders ſhall be given in Writing to every Officer commanding the Sepoy Stations, forbidding them to detach any Sepoys, either ſingly or in Parties, for any Purpoſe whatever, beyond their Quarters, except when required on military Service; to puniſh or confine any Perſon not appertaining to his Command; to lend or borrow Money, to take any Concern in Farms, Taalues, or Securities; to purchaſe or ſell, or contract to purchaſe or ſell, any Article whatever, either in the Diſtrict in which he reſides, or in any other; or to have any Dealings of any Kind whatever, either in the Diſtrict in which he reſides, or in any other; or to have any Dealings of any Kind whatever with any Dewan, Zemindar, Farmer, Ryot, or other Dependant or Officer of the Revenue.—The ſame Orders ſhall be publiſhed to be obſerved by the other Officers, both European and Native, of the Battalion, and to all the Sepoys and Followers of it. It ſhall be declared likewiſe, that the Commanding Officer ſhall be reſponſible for any public Breach of theſe Orders by any Perſon whatſoever under his Command, and the Governor ſhall have the Power of recalling them, without aſſigning a Reaſon to them, or to the Board.

22d. The Officers of the Phouſdarry Adauluts ſhall be forbid to hold Farms or other Offices in the Mofuſſil; they ſhall be obliged to reſide, on Pain of forfeiting their Employments; and it ſhall be declared criminal in any Perſon to officiate in the Courts of Adaulut, in the Capacity of Naibs or Gomaſtahs for Principals Non-reſident.

23d. Complaints againſt the Officers of the Phouſdarry Adauluts to be made to the Governor, and to be referred by him to the Sudder Nizamut, for their Enquiry and Determination.

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* An alienated or free Land, of 100 Rupees Annual Produce, is valued at 10 Years Purchaſe, and conſequently equal to 1,000 Rupees; whereas in a Land paying Revenue, the Zemindar's Share is reckoned only One-tenth, and the other Nine-tenths are the Governments, ſo that though its Produce be 1,000 Rupees, it will yield him only 100 Rupees Annual Profit.

GENERAL APPENDIX, Nº 39.

24th. The Members of the Superior Council, whether in Calcutta or in the Diviſions, to be reſtricted from every Kind of Trade whatever, excepting Diamonds for Remittances to Europe, Goods purchaſed in Calcutta to be exported to foreign Markets for Sale in Calcutta; and in Conſideration of the Prohibition, to be allowed 3,000 Rupees per Month: Each Member ſhall bind himſelf to the Obſervation of this Article, under a Penalty of, Pounds Sterling 20,000.

25th. The Export Warehouſe-keeper at Calcutta to be reſtricted from the Trade in ſuch Articles as conſtitute the Company's Inveſtment; And the Export Warehouſe-keepers of the Diviſions, and the Reſidents of Bowlea, Comercally, Malda, Rungpore, Luckipore, and Colinda, from the ſame Articles within their reſpective Diviſions or Diſtricts.

26th. The Members and Aſſiſtants of the Provincial Council, and the other covenanted Servants of the Company reſiding in the ſubordinate Factories and Out-diſtricts, to be reſtricted from making Advances for Grain, or any ſuch Articles as contribute to the Subſiſtence of the Natives, and cannot be dealt in without Oppreſſion to them; ſuch as Ghee, Oil, Fiſh, Jute, Mates, Straw, Bamboo, Beetle Nut, and Tobacco; which they ſhall purchaſe with ready Money only, at the capital Markets of the Country. And it is expected that the Chief of every Provincial Council will give particular Attention to the rigid Obſervance of this Regulation: And if any of the Servants in his Diviſion, of whatever Rank, ſhould deviate from it, or in any Reſpect carry on a Commerce oppreſſive to the Inhabitants, he is hereby authorized and required to addreſs the Board of Calcutta on this Subject, independent of his Council; and by his own Authority to ſeize any other Perſon accuſed of committing any actual Violence on the Perſons or Property of the Inhabitants, that he may take his Trial at the Provincial Court of Adaulut.

27th. It ſhall be made an Article in the Inſtructions given to the Chief and Council of every Diviſion, that they make particular Enquiry concerning every Taluee, or other ſmaller Portion of Land included within each Diſtrict of their Diviſion, but appertaining to ſome other Diſtrict, whether of their own or any other Diviſion; that they aſcertain the Limits, Malguzarry, and Profits of the ſame; that in like Manner they obtain an Account of every Portion of Land belonging to either of the Diſtricts of their Diviſion, but not included in it; and that they report the ſame to the Superior Council, with the Names of the Proprietors, and every other Circumſtance which may enable them to effect an Exchange or Alienation of theſe ſeparated Lands, on ſuch Terms as may be ſatisfactory to the Owners, and to form a more complete and entire Management of the Diſtricts, for the better Government, and the eaſier Management of the Collections.

It being the profeſſed Intention of the Board to make the Plan now adopted ſubſervient to that which they propoſe for a future and perpetual Syſtem, it is their future Deſign, that whenever the Accounts and Arrangements of any One Diviſion ſhall be ſo regulated and compleated, as to enable them to bring the Controul down to the Preſidency, the Provincial Council ſhall be accordingly withdrawn, and either continue to conduct the Buſineſs of the Diviſion at the Preſidency, or transfer it at once to the Committee. By ſuch progreſſive Method, an eaſy Change may be effected, without the ſmalleſt Hazard of any Loſs or Embarraſſment; at the ſame Time that a Proviſion is made for the Admiſſion of ſuch other Improvements as the Honourable Court of Directors may enjoin, and which would either be precluded by any other Mode, or the new Meaſures which may have been eſtabliſhed muſt be aboliſhed to make Room for them, which would occaſion freſh Perplexities in the Revenue, and fill the Minds of the People with Apprehenſions of perpetual Changes.

It has been already remarked, that the great Weight of Affairs with which the Adminiſtration is already loaded, will not admit of the immediate Introduction of the propoſed Syſtem; and it is poſſible that it may ſtill remain a Charge too great for One Body to manage, even with all the Regularity which Time and Experience can give it; but if it ſhould be found ſo, the Collections will be better conducted at the Preſidency by the ſame Provincial Councils, under the preſent Inſpection of the Superior Council, than under the ſame Controul within the Diſtricts; becauſe of the dangerous Abuſe which may be made of the perſonal Influence of the Members compoſing thoſe Provincial Councils, and reſident within their Diviſions; neither will their Buſineſs ſuffer by the Diſtance of their Situation, except only in the Caſe of extraordinary Inveſtigations, which may require the Preſence of Individuals, or the Inſpection of Moſuſſil Papers.

The Allowance which is propoſed by the 24th Article, for the Members of the Council of 3,000 Rupees to each per Month, will amount, when the Board is complete, to 36,000 per Month, or 4,32,000, per Annum.—It is propoſed, that this Sum be paid from a Fund, to be raiſed from the Trade of Ophium, as reſolved on the Day's Proceedings.—It will be a reaſonable Compenſation for the Loſs which the Members of the Superior Council may be ſuppoſed to ſuſtain by being excluded from every Benefit of Trade, which they could not exerciſe, however diſpoſed in themſelves, without ſome Degree of Oppreſſion. They will have more Leiſure to attend to the Duties of their Stations; and the Chiefs of the Provincial Councils will be more at Liberty to check and correct any Irregularities of others, being under no Reſtraint on account of their own private Concerns.—If it can be ſuppoſed, that Men of the Firſt Diſtinction in the Service, having accepted of ſuch a Compenſation, ſhould notwithſtanding ſo far forget the

Principles of Fidelity and Honour, as to engage in any Concerns contrary to this Prohibition, the Jealouſy of their Councils will prove an effectual Bar to ſuch a Deſign, unleſs they ſhould agree in a Colluſion with them, which it would be impoſſible to conceal.—The Confidence which our Employers have generouſly repoſed in our Attachment to their Service, renders it more particularly our Duty to expreſs our Sentiments on a ſubject of ſuch Importance without reſerve, although our Declarations may admit of a Miſconſtruction againſt ourſelves as Men; the Servants of the Company are not exempted from the Frailties and Wants of Humanity.—If allowed the Liberty of Trade, which they poſſeſs with unbounded Power (and who ſhall bind thoſe who conſtitute the Government itſelf?) their Trade will be a Monopoly and an Oppreſſion—If forbidden to Trade without ſome Compenſation for the Loſs, and ſome allowed Means of acquiring a Livelihood, and even the Proſpect of a Competency, the feeble Words of a public Edict will not hold them, but they will with little Scruple break through them, and obtain thoſe Ends by unallowed Means, becauſe they will think that a Decree which impoſes upon them the Neceſſity of perpetual Penury, could not have been really intended for their rigid Obſervances, ſuch having been in many Inſtances the fatal Practice of this Service.—We ſay fatal, becauſe Laws and Reſtrictions which have no Coercion, and bear too hardly on the Paſſions for the common Sufferance of Mankind, inevitably defeat their own Purpoſe; they become totally diſregarded, nor is it deemed an Impeachment of Morality to tranſgreſs them; and it is a Conſequence as infallible, that when Men are once allowed to paſs the Line of their preſcribed Duty at their own Option, they will by Degrees extend the Latitude to the furtheſt Extremes of Corruption, Embezzlement, and Rapine.—For theſe Reaſons we have judged it adviſeable to withhold the Temptation of Oppreſſion from thoſe whoſe ſuperior Influence would afford them the moſt ready Means of exerciſing it, and to ſecure their Forbearance by an Equivalent and certain Income.—Thus far we think ourſelves warranted by the full Powers granted us by our honourable Employers, although the Purpoſes to which they deſigned our Application of them, are not diſtinctly aſcertained.—We ſhould wiſh to extend the like Rule to the inferior Servants in Power, eſpecially thoſe of the Provincial Councils, by reſtraining them alſo totally from Trade, and making them proportionable Allowances, but we cannot proceed to ſuch a Length, without an expreſs Authority, becauſe we have no other Fund to indemnify the Company for ſuch an Addition as this would make to their Expences, unleſs we were to apply the Profits of the Salt Trade to that Purpoſe; to which there is this Objection, that they are already appropriated, and referred to the Company for their Determinaton concerning them.—We have therefore left the inferior Servants in Poſſeſſion of the Privilege of a Fair Trade; and we hope that the Diſtinction which we have made will prove a ſufficient Guard againſt any great Abuſe of it—The Exceptions which we made to the general Prohibition of Trade for the Members of the Superior Council, cannot be productive of any evil Conſequences, and may be a neceſſary Encouragement to the Promotion of Trade.

In order to carry the temporary Plan into Execution, the Board is further agreed on the following Reſolution.

1ſt. That the Committee of Revenue at the Preſidency be appointed as neceſſary to the Eſtabliſhment of the other Arrangements, and that it do conſiſt of the following Members:

Philip Milner Dacres, Eſq; Preſident.
George Vanſittart, Eſq; Second.
Meſſrs. Henry Cottrell,
William Harwood,
Edward Golding, Members.
Mr. Peter Moore, Secretary and Accomptant.

Meſſrs. Henry Vanſittart, Perſian Tranſlator.
John Taylor,
H. Checkely Plowden,
Thomas Law,
W. N. H. Hewitt,
George Gale. Aſſiſtants.

2d. That they do immediately aſſemble, and take Meaſures for entering upon and executing this Charge; that the Public Regulations already eſtabliſhed, with thoſe contained in 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27th Articles of the foregoing Plan, ſhall in general be the Rule of their Conduct; and that they do apply from Time to Time to the Superior Council of the Revenue for ſuch further Inſtructions as may be required.

3d. That the Collectors of Nuddea, Jeſſore, Houghly, and Mahomedſhahy, be adviſed that their Diſtricts are put under the Management of this Committee, and that they are to return to the Preſidency with their Aſſiſtants whenever they ſhall have rendered their Accounts, and received Orders to that Effect from the Committee.—The Collector of Mahomedſhahy will afterwards remain in his Station under the Chief of the Coſſimbuzar Factory.

4th. That

GENERAL APPENDIX, Nº 30.

4th. That the Provincial Councils of Revenue in Conformity to the above Plan, to conſiſt of the following Members and Aſſiſtants.

BURDWAN.

	John Graham, Eſq; —	Chief.
Meſſrs	John Bathoe, —	Second.
	Alexr Higginſon, —	Third.
	John Holme, —	Fourth.
	Samuel Lewis, —	Fifth.
	Mr. Thomas Graham, —	Secretary.
Meſſrs Aſſiſtants,	David Anderſon,	Perſian Tranſlator.
	Charles Croftes, -	Accomptant.
	William Taylor,	
	Day Hort: Mr. Dowall,	
	William Wilkinſon.	

MOORSHEDABAD.

	Samuel Middleton, Eſq; —	Chief.
Meſſrs	Edward Baber, —	Second.
	William Maxwell, —	Third.
	William Hoſea, —	Fourth.
	John Hogarth, —	Fifth.
Aſſiſtants	Jacob Rider, —	Export Warehouſekeeper, at Coſſimbuzar.
	Nathaniel Middleton,	Secretary.
	John Shore, —	Perſian Tranſlator.
	James Barton, —	Accomptant.
	William Cowper, John Chandler,	Aſſiſtants to the Revenue Council.
Aſſiſtants	Dynely, Burges, Ives,	Aſſiſtants to the Revenue Council.
	Samuel Wildman,	Aſſt to Coſſimr Factory.
	Sir John D'Oyley,	Aſſt to the Reſident at the Durbar.

DINAGEPORE.

	William Lambert, Eſq; —	Chief.
Meſſrs	Herbert Harris, —	Second.
	George Robertſon, —	Third.
	Anthy B. Goodlad, —	Fourth.
	Francis Gladwin, —	Fifth.

DACCA.

	Richard Barwell, Eſquire, —	Chief.
Meſſrs	Charles Purling, —	Second.
	W. M. Thackeray, —	Third.
	John Shakeſpear, —	Fourth.
	Wm Hollond. —	Fifth.

Mr. Francis Law, Export Warehouſekeeper.
Mr. Thomas Legh, Aſſiſtant.

Meſſrs	Frederick Stuart, Matthew Day, George Hatch, Henry Lodge, Robert Crawford, John Evelyn, William Cator, Joſeph Cator.	Aſſiſtants, to be arranged to the different Apartments of the Revenue and Factory by the Chief.

5th. That the Council for the Dacca Diviſion be furniſhed with the above quoted Articles of the Plan, and be immediately directed to aſſemble and enter upon the Execution of their Truſt.— But that they do not take upon them the Management of Cogmary, Attya, and Burbazzoo, until the Transfer can be regularly adjuſted between this Council and the Council of Dinagepore Diviſion, at the End of the Year, without Prejudice to the Revenue.

6th. That the Council of the Moorſhedabad Diviſion be alſo furniſhed with the above Extracts of the Plan, together with the 19th Article, and directed to aſſemble immediately; that the ſeveral Collectors of Luſkerſſore, Chunacolly, Rockimpore, Boglepore, and Jehanguirepore, be adviſed, that their Diſtricts are put under the Management of this Council; that they are to render up their Charge of the Revenue to them; and, excepting ſuch as are detained by other Appointments, return with their Aſſiſtants to the Preſidency.

7th. That the Councils for the Diviſions of Burdwan and Dinagepore, be directed to aſſemble at their Stations the End of the Month of February next, ſo as to enter upon the Execution of their Truſt with the Buſineſs of the New-year Collections; and that the neceſſary Orders, in conſequence, ſhall then be iſſued to the ſeveral Collectors under theſe Diviſions.

8th. That the Council of Patna ſhall immediately take upon them the Superintendance of the Province of Bahar, and order the Collectors and Aſſiſtants to return to the Preſidency as ſoon as they ſhall have adjuſted their Accounts to their Satisfaction.

9th. That the Preſident be requeſted to iſſue Orders for the Conduct of the Military Officers, as expreſſed in the 21ſt Article of the Plan.

10th. That the following Perſons be appointed the Dewans of the ſeveral Diviſions, viz^t.

Raja Rajebullub Gonga Govind Sing, Naib	At Calcutta.
	At Burdwan.
	At Moorſhedabad.
	At Dinagepore.
	At Dacca.

11th, That the * Allowances to the Chiefs and Members of the Provincial Council, &c. be fixed as follows:

To the Chiefs, as per Article 24.	3,000 per Month.	Exclusive of the Allowances according to their Rank as they would receive in Calcutta, viz. A Senior Merchant, Junior Merchant, Factor, Writer:
The Second — — —	600 Dº	
The Third — — —	500 Dº	
The Fourth — — —	400 Dº	
The Fifth — — —	400 Dº	
The Secretary — — —	100 Dº	
The Perſian Tranſlator — —	100 Dº	
The Accomptant — —	100 Dº	
The Export Warehouſe Keeper —	500 Dº	

The Aſſiſtants according to their Rank as they would receive at the Preſidency, to be drawn at the Zillas, not from the Buxey.

12th. That Mr. Lawrell be appointed Preſident of the Board of Cuſtoms on the Departure of Mr. Graham.

13th. That the following Gentlemen be appointed Members of the Board of Cuſtoms, according to the original Reſolution, that it ſhould conſiſt of the Four Senior Servants under Council:

Meſſrs. Nicholas Grueber,
Charles Bentley,
Charles Stuart.
Nathaniel Bateman.

14th. That the Vacancies in the Offices at the Preſidency occaſioned by the foregoing Arrangements, be filled up as follows:

Mr. Richard Sumner, Secretary to the Council of Revenue.
On the Departure of Mr. Higginſon,
Mr. George Hodgſon, Aſſiſtant Secretary to ditto.
Mr. Iſaac Baugh, Sub-ſecretary to ditto.

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* The Allowances to the Chiefs of the Provincial Councils are not to be drawn in the Zillas, but will be paid at the Preſidency from the Fund to be appropriated for that Purpoſe.

Ordered, That the Secretary do tranſmit to the General Department, a Liſt of the above Appointments, and an Extract of ſuch Part of the Reſolutions as relate to the Export Warehouſe-keeper. The other Arrangements, which may be neceſſary to be made in conſequence of the Orders of the Harcourt, to be completed in the General Department.

Ordered further, That the neceſſary Letters and Orders be immediately iſſued in conſequence of theſe Reſolutions; and that the Letters be entered at the Cloſe of this Day's Proceedings.

Letter to the Committee of Revenue at Calcutta.

To Phillip Milner Dacres, Eſq;
George Vanſittart, Eſq;
Meſſrs Henry Cottrell,
William Harwood,
Edward Golding.

Gentlemen,

Having, in conſequence of the Orders of the Honourable Court of Directors, thought it neceſſary to recall the Collectors, and to eſtabliſh a new Mode of Superintendency for collecting the Revenues of the Provinces of Bengal and Bahar, we have reſolved, as a preſent Expedient, to divide the Provinces into Six Grand Diviſions, each Diviſion to be under the Management of a Council, conſiſting of a Chief and Four Members. The Firſt of theſe Grand Diviſions is to be managed at Calcutta, and to conſiſt of the Calcutta Pergunnah,

Houghly,
Idgelee,
Myſadel,
Tumlook,
Nuddea,
Jeſſore,
Mahomedſhahy,

With the Talooks of Cantoonagur, &c. and all Lands belonging to Perſons of Credit, whoſe conſtant Reſidence is in Calcutta; but this is meant only of Lands which are their own Property, not of ſuch as they may farm, or be Security for; and even in thoſe, the Adminiſtration of Juſtice muſt reſt entirely with the Provincial Council in whoſe Diviſion they may be ſituated.

For the ſuperintending the Grand Diviſion, we have thought proper to conſtitute you a Committee of Revenue at the Preſidency, agreeably to the undermentioned Arrangement:

Philip Milner Dacres, Eſq;	Preſident.
George Vanſittart, Eſq;	Second.
Meſſrs Henry Cottrell,	Third.
William Harwood,	Fourth.
Edward Golding,	Fifth.

Meſſrs Peter Moore,
Henry Vanſittart,
John Taylor,
H. C. Plowden,
Thomas Law,
W. N. H. Hewit,
Roger Gale,

Aſſiſtants, which are to be arranged to the different Departments by the Chief, and Advice tranſmitted in what Manner they are ſtationed.

We direct, that you do immediately aſſemble, and take Meaſures for entering upon and executing your Charge. The public Regulations already eſtabliſhed, with thoſe concerned in the accompanying Articles of our preſent Plan, are, in general, to be the Rule of your Conduct; and you are to apply from Time to Time to us, for ſuch further Inſtructions as may be required.—The Collectors of Nuddea, Jeſſore, Houghly, and Mahomedſhahy, are adviſed, that their Diſtricts are put under your Management; and they are to return to the Preſidency, with their Aſſiſtants, whenever they ſhall have rendered their Accounts, and received Orders to that Effect from you, unleſs they ſhould be detained by their public Appointments.

We have thought proper to appoint the Roy Royan to act as Dewan to your Committee; and his Naib, Gonga Govind Sing, as his Deputy.

GENERAL APPENDIX, Nº 30.

The Allowances to the Chief and Members of your Committee, are fixed as follows:

To the Chief, as per accompanying Article, Nº 24,	—	3,000 Rs per Month.
Second,	Ditto	3,000 Ditto.
Third,	Ditto	600 Ditto.
Fourth,	Ditto	500 Ditto.
Fifth,	Ditto	400 Ditto.
Secretary,	—	100 Ditto.
Accomptant,	—	100 Ditto.
Perſian Tranſlator,	—	100 Ditto.

You will pleaſe to obſerve, that the Allowances to the Chief and Second are not to be drawn, until you receive our further Orders.

Your particular Attention is required to the 27th Article of the encloſed Regulations, and you will tranſmit us the Reſult of your Enquiries upon it, as ſoon as you have been able to perfect them.

We deſire that you will obſerve, that although we have reſolved immediately to adopt the above Plan, we mean it, and declare it to be only for a temporary Purpoſe, and introductory to any other more general and permanent One which the Honourable Court of Directors, or we, may hereafter determine upon.

Letter from the Board to the Collector of Nuddea.

To Mr. Henry Cottrell, Collector of Nuddea.

Sir,

We have now to adviſe you, that we have thought proper to put your Collectorſhip under the Management of a Committee, which we have formed at the Preſidency, of which is appointed Preſident, Mr. Dacres.

We, in conſequence, direct you to return to the Preſidency with your Aſſiſtant, whenever you ſhall have rendered your Accounts, and received Orders to that Effect from the Committee above-mentioned.

The ſame to Mr. Samuel Chartres, Collector of Jeſſore.

Ditto to Mr. William Wynne, Collector of Mahomedſhahy; with this Alteration in the Second Paragraph: We in conſequence direct you to deliver over, Charge of your Collectorſhip to that Committee; after which, you will remain in your Station at Comercolly, as Aſſiſtant to the Chief of the Coſſimbuzar Factory.—The Aſſiſtant to your Collectorſhip will return to the Preſidency.

Letter from the Board to the Collector of Houghly.

To Mr. William Hoſea, Collector of Houghly.

(The Firſt Paragraph as to Nuddea.) We have in conſequence to direct you to proceed to your Station at Moorſhedabad, whenever you ſhall have rendered your Accounts, and received Orders to that Effect, from the Committee above-mentioned, and delivered over the Charge of the Buſkſhbunder to the Phouſdar of Houghly. Your Aſſiſtant is at the ſame Time to return to the Preſidency.

GENERAL APPENDIX, N° 30.

Letter from the Board to the Provincial Council at Dacca.

To Richard Barwell, Eſq;
Meſſrs Charles Purling,
W. M. Thackeray,
John Shakeſpear,
William Hollond.

Gentlemen,

Having, in conſequence of the Orders of the Honourable Court of Directors, thought it neceſſary to recall the Collectors, and to eſtabliſh a new Mode of Superintendancy for collecting the Revenues of the Provinces of Bengal and Bahar; we have reſolved, as a preſent Expedient, to divide the Provinces into Six Grand Diviſions; each Diviſion to be under the Management of a Council, conſiſting of a Chief and Four Members. The Fifth of theſe Grand Diviſions is to be managed at Dacca, and to conſiſt of;

Dacca;
Sylhet;
Attya;
Cogonary;
Burbazzor;

For the ſuperintending this Grand Diviſion, we have thought proper to conſtitute you a Council at Dacca, agreeably to the under-mentioned Arrangement; viz.

Richard Barwell, Eſq;	Chief.
Meſſrs Charles Purling,	Second.
W. H. Thackeray,	Third.
John Shakeſpear,	Fourth.
William Hollond,	Fifth.

Meſſrs Thomas Legh,
Frederick Stuart,
Matthew Day,
George Hatch,
Henry Lodge,
Robert Crawford,
John Evelyn,
William Cator,
Joſeph Cator,

Aſſiſtants, which are to be arranged to the different Departments by the Chief, and Advice tranſmitted in what Manner they are ſtationed.

We direct that you do immediately aſſemble, and take Meaſures for entering upon and executing your Charge.—The public Regulations already eſtabliſhed, with thoſe contained in the accompanying Articles of our preſent Plan, are in general to be the Rule of your Conduct; and you are to apply from Time to Time to us for ſuch Inſtructions as may be required.

We have thought proper to appoint Dewan and Naib Dewan of your Grand Diviſion.

The Allowance to the Chief and Members of your Council is fixed as follows:

To the Chief, as per accompanying Article N° 24,		3,000 Rupees per Month.
Second	Ditto	600 Ditto
Third	Ditto	500 Ditto
Fourth	Ditto	400 Ditto
Fifth	Ditto	400 Ditto
Secretary	—	100 Ditto
Perſian Tranſlator	—	100 Ditto
Accomptant	—	100 Ditto

You will pleaſe to obſerve, that the Allowances to the Chief are not to be drawn until you receive our further Orders.

Your particular Attention is required to the 27th Article of the encloſed Regulations; and you will tranſmit us the Reſult of your Enquiries upon it, as ſoon as you have been able to perfect them.

We deſire you will obſerve, that although we have reſolved immediately to adopt the above mentioned Plan, we mean it, and declare it to be only for a temporary Purpoſe, and introductory to any other more general and permanent One, which the Honourable Court of Directors, or we, may hereafter determine upon.

We have thought proper to appoint Mr. J. Hogarth, Fifth of the Council of Moorſhedabad, to which Station you will direct him to proceed with all convenient Expedition.

Fort William, — We are, &c. —
23d November 1773.

To Samuel Middleton, Eſquire,
Meſſrs. Edward Baber,
William Maxwell,
William Hoſea,
John Hogarth,

Gentlemen,

(With the Preamble, ending with) "conſiſting of a Chief and Four Members." The Third of theſe Grand Diviſions is to be managed at Moorſhedabad, and to conſiſt of,

Raadſhahy,	Eaſtern and Weſtern Diviſion
Ruekenpore,	Collectorſhip
Chunacolly,	Ditto
Luckerpore,	Ditto
Khâs Talook, -	Ditto

Rajemehall and Boglepore, including the Annexations lately made to the latter from Mongheer.
Carruckpore, Jungleterry, &c. Diſtricts under the Management of Captain Brooke.

For the ſuperintending this Grand Diviſion, we have thought proper to conſtitute you a Council at Moorſhedabad, agreeably to the undermentioned Arrangements, viz.

	Samuel Middleton, Eſquire, - -	Chief.
Meſſrs.	Edward Baber, - - -	Second
	William Maxwell, - - -	Third
	William Hoſea, - - -	Fourth
	John Hogarth, - - -	Fifth

Meſſrs.	Nathaniel Middleton, -	Secretary
	John Shore, - - -	Perſian Tranſlator
	James Barton, - - -	Accomptant
	William Cowper,	Aſſiſtants to the Revenue Council.
	Henry Chandler,	
	John Dynely,	
	Edward Eyre Burges,	
	Edward Otto Ives,	
	Samuel Wildman,	Aſſiſtant at Coſſimbuzar
	Sir John D'Oyly — —	D° to the Durbar.

We direct that you do immediately aſſemble, and take Meaſures for entering upon and executing your Charge.—The public Regulations already eſtabliſhed, with thoſe contained in the accompaning Articles of our preſent Plan, are in general to be the Rule of your Conduct; and you are to apply from Time to Time to us, for ſuch further Inſtructions as may be required.

The Collectors of Ruckunpore, Chunacolly, Luchkiſpore, Jehanguirepore, Rajemahall, and Boglepore, are adviſed, that their Diſtricts are put under your Management, and they are to leave their Collectorſhips, with their Aſſiſtants, whenever they ſhall have rendered their Accounts, and received Orders to that Effect from you.—The Collector of Ruckenpore will remain in his Station of Collector of the Cuſtoms at Moorſhedabad.—The Collector of Chunacolly will continue to ſuperintend the Mint at the City, and the Collector of Luchkerpore and Jehanguirepore, the former will remain in his Station at Bauleah, as Aſſiſtant to the Chief of Coſſimbuzar, and the latter as Reſident at Maulda Factory.

We

GENERAL APPENDIX, N° 30.

We have thought proper to appoint Dewan, and Naib Dewan, of your Grand Diviſion.

The Allowances to the Chief and Members of your Council are fixed as follows:

To the Chief, as per accompanying Article N° 2			43,000	Rupees per Month.
Second	—	Ditto	600	Ditto
Third	—	Ditto	500	Ditto
Fourth	—	Ditto	400	Ditto
Fifth	—	Ditto	400	Ditto
Secretary	—	—	100	Ditto
Accomptant	—	—	100	Ditto
Perſian Tranſlator		—	100	Ditto

You will pleaſe to obſerve, &c. (as per the Three laſt Paragraphs of the Letter, Grand Diviſion at Calcutta.)

Board's Letter to the Collector of Ruckunpore.

To Mr. W. H. B. Martin, Collector of Ruckunpore.

Sir,

We have now to adviſe you, that we have thought proper to put the Collectorſhip of Ruckunpore under the Management of a Council, which we have formed, at Moorſhedabad, of which Mr. Middleton is appointed Chief.

We have in conſequence to direct you to deliver over the Charge whenever you ſhall have rendered your Accounts, and received Orders to this Effect from the Council abovementioned; after which you will remain in your Station of Collector of the Government Cuſtoms at Moorſhedabad, acting therein under our Orders, and thoſe of the Board of Cuſtoms—Your Aſſiſtant will return to the Preſidency.

Board's Letter to the Collector of Luſhkerpore.

To Mr. Thomas Pattle, Collector of Luſhkerpore.

(The firſt Part the ſame as the above; the latter Part altered, to) "after which you will remain in your Station," at Bauleah as Aſſiſtant to the Chief of Coſſimbuzar.—Your Aſſiſtant being appointed an Aſſiſtant to the above mentioned Council of Revenue, will accordingly proceed to his Station.

Board's Letter to the Collector of Jehanguirepore.

To Mr. Thomas Henchman, Collector of Jehanguirepore.

"After which you will remain in your Station as Reſident of Malda Factory."

Board's Letter to the Collector of Chunacolly.

To Mr. James Irwin, Collector of Chunacolly.

"After which you will remain in your Station" of Superintendant of the Mint at Moorſhedabad, acting in that Capacity under our Orders.

Board's Letter to the Collector of Rajemehall.

To Mr. James Barton, Collector of Rajemehall, &c.

"After which you will proceed to your Station at Moorſhedabad, and direct your Aſſiſtants to return to the Preſidency."

GENERAL APPENDIX, Nº 30, 31.

Board's Letter to the Chief, and Council, at Patna.

To Thomas Lane, Eſquire,
Meſſrs. George Hurſt,
Robert Palk,
Simeon Droz,
Ewan Law.

(With the Preamble ending with) "conſiſting of a Chief and Four Members." The Sixth of theſe Grand Diviſions is to be managed at Patna, and to conſiſt of, the Bahar Province, excepting the Seperations which have already taken Place of Part of Mongheer, Curruckpore, Jungleterry Diſtricts, Ramgur, Palamou, &c.

For the ſuperintending of this Grand Diviſion, we have thought proper to conſtitute you a Council at Patna, agreeably to the under-mentioned Arrangement.

	Thomas Lane, Eſq;	Chief.
Meſſrs.	George Hurſt,	Second.
	Robert Palk,	Third.
	Simeon Droz,	Fourth.
	Ewan Law,	Fifth.

Your preſent Number of Aſſiſtants are to be continued, and they are to be arranged by you to the different Departments, and Advice tranſmitted in what Manner they are ſtationed.

The public Regulations already eſtabliſhed, with thoſe contained in the accompanying Articles of our preſent Plan, are in general to be the Rule of your Conduct; and you are to apply from Time to Time to us, for ſuch further Inſtructions as may be required.

You will adviſe the ſeveral Collectors in the Bahar Province, that their Diſtricts are now put under your immediate Management, and that they are to return to the Preſidency, with their Aſſiſtants, whenever they ſhall have rendered their Accounts, and received Orders to that Purpoſe from you.

The Allowance to the Chief and Members of your Council is fixed as follows. (Vide Dacca Letter to the End.)

GENERAL APPENDIX, Nº 31.

Extract of a Letter from Sir Elijah Impey to Lord Viſcount Weymouth, dated Fort William, 26th March 1779.

TWO Petitions have been promoted in this Settlement, one to be laid before the Supreme Court here, and the other before the Parliament of Great Britain; which has raiſed a great Ferment in the Minds of the People, and which ultimately affect the Adminiſtration. In purſuance of my Duty under the Directions of the late Lord High Chancellor, I have the Honour of laying before your Lordſhip, a full and authentic Account of the Cauſes, Riſe, and Progreſs, of this extraordinary Tranſaction, as far as they have come to the Knowledge of the Judges.

In the laſt Summer, Two Actions of Aſſault, Battery, and Impriſonment, were brought againſt one James Creaſſey. The Form of Pleading iſſuably, has always been by concluding thus, "And of this he puts himſelf upon the Court." Inſtead of which, the Defendant in one Action pleaded Not Guilty, and concluded thus "And of this, he puts himſelf upon the Country, and thereby ſubmits himſelf to the Judgment of his Peers, per James Creaſſey." And in the other Action, the ſame Plea, with this Concluſion; "And of this, he puts himſelf upon the Country, and thereby ſubmits himſelf to the Judgment of a Jury." The Plaintiff demurred in both Actions, and the Defendant joined in Demurrer.

Something having paſſed in Court, by which we learnt, that the Defendant intended to inſiſt on the Right to have the Iſſue tried by a Jury: I endeavoured to perſuade the Defendant, who was then in Court, not to perſiſt in his Concluſion; and pointed out to him the inevitable Event if he went on. The Advocate for the Plaintiff offered to conſent to his withdrawing his Plea, and pleading de novo; but every Perſuaſion and every Conceſſion ſerved only to make him more determined to abide by his Pleas.

The Demurrers came on for Hearing, and Creaſſey not being able to procure an Advocate to contend, that the Trials ought to be by Jury, argued them himſelf. As this had brought together a very numerous Audience, and had been a Subject of much Converſation, for their Satisfaction, the Court entered fully into the Subject, and adduced every Argument which occurred to us, from the Act of Parliament, and His Majeſty's Charter, to demonſtrate, that it was not in our Power to admit the Claim.

There were Judgments on the Demurrers, that the Plaintiff ſhould anſwer over; but being ſerved with Rules to plead, he refuſed to plead, whereupon the Cauſes were ſet down ex parte, conformable to the Directions of the Charter, in Caſes where Defendants neglect or refuſe to plead. They were tried in the laſt Term; and it appeared on the Evidence, that both the Plaintiffs were Carpenters; that the Defendant had kept both of them in Confinement for a Night, had ordered Servants to beat them, and had himſelf beat them with a Rattan Cane; and this under Pretence of obliging them to pay Ten Rupees, which another Perſon claimed, but in Truth for the Purpoſe of compelling them to deſert the Service of Mr. Lyons, an Architect, with whom they were engaged, and to enter into that of Lieutenant Colonel Watſon.—Damages to the Amount of Two hundred Sicca Rupees, equal to about £. 20. Sterling, were given in each Action.

The Day after Judgments were given on the Demurrers, Hand Bills, ſigned by Creaſſey, were poſted up againſt the Court Houſe, and in the moſt public Places in the Town, by which "he returned his Thanks to thoſe Gentlemen who the Day before privately contributed to ſupport him againſt the Power now claimed over his Perſon and Property, as well, as over the Perſons and Properties of all the Britiſh Subjects in theſe Provinces;" and went on to ſolicit more Contributions.

The Arguments of the Court had not [illegible]ired Effect with the Audience: Several of the Inhabitants began to have Meetings, [illegible] Length formed a Committee by Ballot. The only avowed Purpoſe of the Inſtitutio[illegible] Committee, is, that of procuring a Trial by Jury in Civil Suits; and though great [illegible] have been taken to conceal from us the particular Subjects which they agitate, yet w[illegible]fficiently informed, that their Deliberations are not confined to this pretended Grievance, [illegible] that they are, by all Means in their Power, attempting to effect the Deſtruction of the Court.

The Members of the Committee are John Petrie, Simeon Droz, Henry Vanſittart, Philip Milner Dacres, Henry Watſon, George Guſtavus Ducarrell, Alexander Higginſon, Thomas Dean Pearſe, J. Evelyn, Henry Cottrell, John Shore, Samuel Touchet.—On the 12th Inſtant, Mr. Petrie, their Chairman, and Four others of the Committee, it being Term Time, came to the Court, and informed us, that they were deputed by a numerous and reſpectable Body of the Britiſh Inhabitants of Calcutta, to preſent a Petition to the Court, and deſired to know when it would be convenient to the Judges to receive it. I informed them, that we ſat every Day, and ſhould be at any Time ready to receive it. They appointed the Tueſday following, the 16th.—On that Day, the Committee (a large Body of the Civil and Military Inhabitants being preſent in Court) preſented it accordingly.

Though we have exerciſed our Functions near Four Years and a Half, and in that Period have decided a Number of Cauſes, in ſome of which, Perſons who ſubſcribed the Petition, had been Defendants, and had been condemned in Damages; yet they pretended, by their Petition, to have learnt, from the Deciſions in Creaſſey's Cauſes, for the Firſt Time, that the Civil Cauſes of Britiſh Subjects were not triable by Jury; and they demanded ſuch Trial "as the unalienable Right of Britiſh Subjects, reſiding in any Country where the Laws of Great Britain are in Force, however far removed it may be from their native Land." And they affect to conſider the Denial of it by the Judges, as an Invaſion of the ſacred Palladium of their Liberties, confirmed to them not only by Magna Charta, but by the Act of Parliament, in conſequence of which His Majeſty erected the preſent Court.

Notwithſtanding the Charter has preſcribed to us the Mode of our Proceedings, from which we cannot depart, they inſiſt that it contains no Clauſe "in which their Right to a Trial by Jury is in any Way weakened or affected." And contend, "That if the Charter of Juſtice ſhould contain any Clauſe tending to deprive them of the Right they now claim, ſuch Clauſe muſt be contrary to the fundamental Laws of the Land, ſubverſive of the Rights of Individuals, and contrary to the great Charter of Engliſh Liberties." Then ſuppoſing, contrary to the Truth, that the Charter "is ſilent on the Mode of Trial to be adopted in Civil Caſes;" and from thence inferring, that the impediment to their Claim has ariſen from a Defect of Power in the Court to compel the Attendance of Jurors, except in Criminal Caſes, they proceed to "offer a voluntary Tender of their Services as Jurors, on all Occaſions where the Rights of Britiſh Subjects are concerned," an Offer which they knew we could not accept. Many of them have too much Senſe not to know, after the Peruſal of the Statute and Charter, if they did not before, that we had no Authority to grant their Requeſt; and muſt be convinced of the Abſurdity of the Adminiſtration of His Majeſty's Juſtice being made dependant on the voluntary Services of Perſons who might, at any Time, recede from their Offer, and whoſe Deſigns are aimed at the Abolition of it.

They conclude their Petition, by deſiring us to give them "our Determination with all convenient Expedition, that they may, if neceſſary, be enabled to purſue ſuch other Mode of Application as will procure them the ſpeedieſt Redreſs of the Grievance they now ſuffer." Mr. Petrie, in the Name of the reſt, deſired, That our Anſwer ſhould be in Writing. We named the Thurſday following, the 18th, to deliver it; and on that Day the Committee (the Court being filled as before) came and received it.

By our Anſwer, we acquainted them with our Judgment in Creaſſey's Cauſes, and that we were bound by Law to adhere to them. That the Mode of Proceeding was not optional with us, but dictated to us; that we were therefore not authorized to accept the Tender of their Services, except at the Seſſions of Oyer and Terminer, and Gaol Delivery.

Having heard authentically, that a Petition to be laid before Parliament, and which is intended to be concealed from us, had been drawn; that Subſcriptions to it, together with Promiſes of not revealing the Contents, had been obtained; and that from ſome, Promiſes were exacted to ſign it before they were truſted to peruſe it; and having Reaſon to believe, that ſome Strictures on the Judgments of the Court had been inſerted in it, we intimated in our Anſwer, that out of Candour to us, and for the Succeſs of their own Application, it would be proper to ſhew it to us, before they tranſmitted it to England; and we appointed Thurſday the 25th to receive it: We gave that long Interval, that they might have full Time to deliberate on the Propriety of ſuffering us to have a Sight of it.

On Saturday the 20th, I received a Letter, ſigned by the Committee, requeſting me to inform the Judges, "That it was neceſſary to aſſemble as numerous a Meeting as poſſible, to conſider of our Requeſt; and that therefore they were deprived of the Power of attending us in Court on Thurſday next."—Mr. Hickey, an Attorney of the Court, had been retained to ſolicit this Buſineſs in England, and has taken a Paſſage on board the Naſſau Indiaman. The Governor General and Council had fixed Monday the 29th for cloſing the Packet, which was to be ſent by that Ship. —Their Order, by written Hand Bills, had been publiſhed in Calcutta. The Committee, by printed Hand Bills, called the Meeting of the Petitioners for the Day on which the Packet was to be cloſed, viz. for Monday Morning the 29th Inſtant, at Ten o'Clock, to take into Conſideration the Anſwer given by the Court to the Petition; and publiſhed to them, "That Matters of the higheſt Importance will come before this Meeting."

Thus the Committee effectually prevented the Aſſembly, if it had been ſo inclined, from giving us a Copy of the Petition, ſo as to be obſerved upon in any Letter to England. But there was no ſuch Inclination; for I have, while I am writing, received Two other Letters from the Committee, together with a Copy of Reſolutions formally taken at the Meeting held this Day; in one of which they declare, "that neither Candour, nor the Succeſs of their Petition; require that they ſhould give us a Copy of it; and forbid their Committee granting a Copy to any Perſon whatſoever." This muſt be my Excuſe to your Lordſhip, for not obviating any Charges which may be brought againſt the Court, and for not anſwering ſuch Arguments as may be uſed in the Petition; for all the Judges are, in Truth, totally Strangers to the ſubject Matter of the Petition, and to every Article of its Contents. All we have been able to learn is, that this differs much from that preſented to the Court; is not confined to a Demand of Juries, but is levelled at the Court itſelf. The Records have been ranſacked from the Firſt Sitting of the Court, to procure Matter of Complaint or Accuſation. This latter Circumſtance gives us great Satisfaction, from the cloſe Secreſy with which this Paper has been kept from us, though ſo many have ſigned it, your Lordſhip will judge of the Spirit of the Combination, and from the Materials they produce, the Juſtice of it. We are not willing to believe that they will ſo daringly depart from common Honeſty, as to repreſent abſolute Untruths; if they adhere to Truth, ſet out the whole Truth, and advance no Facts without proper Vouchers, the Records, Evidence, and Proceedings, we are confident they can make no Impreſſion to our Prejudice on the Parliament, or the King's Miniſters: But as they have been ſo unfair as to evade ſuch Obſervations as their Allegations might, if ſeen, have called from the Judges; and as we conceive them not to be ſcrupulous in adopting any Means by which they might ſhake off that Reſtraint which they have experienced from the Court, we think it more than probable that they will ſhew ſuch Parts or Proceedings as they hope may anſwer their Purpoſe, and withhold ſuch as would deſtroy it; and that they will endeavour to put on real Tranſactions falſe Gloſſes, which they are conſcious would have been refuted had they been diſcloſed to the Judges.

GENERAL APPENDIX, Nº 31.

It is too obvious to need Obſervation, that the Natives might, with equal Juſtice, require to have their Rights tried by a Jury of their own Countrymen, as Britiſh Subjects have to be Jurors where their own Rights are concerned.

Did we in our Conſciences believe, that their Application to Parliament proceeded from a juſt Senſe of real Grievance, that it was proſecuted with upright Intentions, and had the Conduct and Diſpoſitions of His Majeſty's Subjects here been ſuch, as to induce us to think, that Queſtions, which involve the oppoſed Intereſts of the Natives and Britiſh Subjects, of Individuals and the Company, of Men in Power and Men out of Power, of Men patronized and Men unpatronized, of the Partizans of one Faction and thoſe of another, could be impartially tried by ſuch a Jury as is deſired; and that thoſe Perſons, the Suſpicion of whoſe Crimes had cauſed the Inſtitution of the Court, were competent to give juſt Verdicts in Proſecutions brought on the late Act of Parliament to puniſh their own Offences, induced by the Eaſe we ſhould obtain, and the Inviduouſneſs we ſhould avoid, we ſhould moſt willingly have concurred with the Petitioners in promoting the Succeſs of this Meaſure.

We are convinced, that every Argument which prevailed againſt the Continuance of the Mayor's Court, operates with ſtronger Force againſt the preſent Propoſition. Thoſe of whom Juries muſt be compoſed here, muſt be equally dependent and ſubject to Influence with the Members of that Court, and moſt probably be more obnoxious to the Laws. By ſerving only in Rotation, if they decided partially and corruptly, they would divide among many that Load of Infamy and Guilt, which the ſmaller Body of Mayor and Aldermen ſhould have ſhrunk from, leſt they ſhould ſink under it.

The Provincial Councils, which act as Adauluts, or Courts of Civil Juriſdiction, though planned on wiſe Principles, which, if purſued in Practice might have been of great Benefit to this Country, have been ſo perverted in the Execution, as to be the greateſt Engines of Oppreſſion which the miſerable Inhabitants of this Country labour under. In ſome, as we have been credibly informed, and of which we entertain no Doubt, the Adminiſtration of Juſtice has been let to hire to Dewans, and Banyans of thoſe Gentlemen whoſe Duty it was to preſide in thoſe Courts; and thoſe to whom it was let out, were left to indemnify themſelves by what they could extract from the Suitors. In others, the Forms and Terrors of Juſtice have been held forth merely to give Colour and Force to Rapine and Extortion. Of Two moſt notorious Inſtances of the latter, we have had an Opportunity of taking judicial Notice, without the leaſt Impeachment of the Authorities of thoſe Courts; to which, while they are ſuffered to exiſt, we think ourſelves bound to allow all the Rights, Privileges, and Immunities, which were intended to ſupport and protect more upright Judicatures.

One of the Cauſes I allude to was tried on the 29th of March 1777, in which Bibee Sukun was Plaintiff, and Anderam Mulleek, Defendant. The Plaintiff was a Widow of Opulence, Family, and Virtue. A Charge without the leaſt Colour of Truth was forged againſt her, for having had and murdered her Baſtard Child. This was done for the Purpoſe of giving a Pretence of putting a Guard over her Houſe, and treating her with inhuman Severity by the Authority of the Provincial Council, and this was done till a large Sum of Money was extorted from her. The Plaintiff recovered Damages to the Amount of Thirty-three thouſand Five hundred and Seventy-five Patna Sonaut Rupees. This Action was againſt a Black Agent; other Actions were about to be commenced againſt Britiſh Subjects, who were ſuſpected, to have partaken of the Money extorted, but thought (as we have been informed) that it was more proper to make a Compromiſe than to ſtand a Trial.—The other was tried in November laſt. In that Nadarah Begum was Plaintiff, and Behadar Beg and others, Officers attending the Provincial Council at Patna, were Defendants. In that Cauſe it appeared, that the Plaintiff a Widow of an Omrah of the Empire, to whom her Huſband had, by Deeds executed in his Life-time, given perſonal Effects to the Value of ſome Lacks of Rupees, and a conſiderable landed Property, was, under Pretence that the Deeds had been forged, though Proof was made to the contrary, plundered and ſtript of the whole Eſtate, turned out without Bed or Covering into the public Streets, compelled to take Refuge in a Monument inhabited by Faquiers, and to depend upon their Charity for Subſiſtence; was there purſued by a Guard of Sepoys, who had Orders not to ſuffer any Suſtenance to be conveyed to her, and who executed their Orders ſo rigorouſly for Three Days, that during that Period ſhe ſubſiſted only on Rice and flat Cakes, which the Faquiers found Means to convey through common Drains or Chinks in the Walls of the ruinous Room which they had aſſigned her for an Aſylum. The Inſults offered to her were carried to ſuch Lengths, that her Attendants called upon her to eſcape them, by putting an End to her Life, which fatal Purpoſe ſhe was on the Point of executing with a Poniard which ſhe had ſecreted for that Purpoſe; when a timely Relaxation of an intended Indignity, happily prevented this enormous Injury from ending moſt tragically. This Action was likewiſe brought againſt Black Agents, whom the Council at Patna had, contrary to their original Inſtitution, empowered to hear and determine a Petition, in which there was no Allegation whatever of any Forgery. Judgment was for the Plaintiff with Three Lack of Rupees Damages, and Actions have been or will be commenced againſt the Council, for the Severities exerciſed on the Lady at the Monument by their expreſs Order, to which the Defendants in this Action did not appear to be Parties.

If, notwithſtanding theſe Objections, it ſhould be thought eligible to try civil Cauſes by the Britiſh Jurors reſident in Calcutta, we ſtill much doubt the Practicability of it. Three hundred and Twenty-three Perſons have, indeed, tendered their Services; but the major Part of them, on account of Diſqualifications, or Duties of a different Nature, cannot make good their Offer. How far it is conſiſtent with the Duty of Soldiers, or of the civil Servants of the Company, exempted from ſerving on Juries becauſe they hold Offices incompatible with their Attendance at the Seſſions of Oyer and Terminer and Goal Delivery, to make ſuch Tender of Services, is not for me to enquire.—Though the Officers of the military Corps now in Calcutta may be willing to ſerve, thoſe of the other Corps which are to relieve them, may not be in the ſame Diſpoſition; and for Reaſons which are obvious, it is not credible that the Parliament will ever compel the Officers of the Army, under all Circumſtances, to execute the Duties of Jurors.

The Board of Commerce in October 1775, applied for themſelves, and ſome Servants under them, to be excuſed from ſerving on Juries, by Petition, which ſet forth the Detriment which would accrue to the Company's Affairs, if they were called from their ordinary Duties. In March 1777, the Governor General and Council moved the Court, by their Advocate, that ſeveral Perſons holding Offices under them, might be exempt from the ſame Service, on the ſame Suggeſtion; and both Applications were complied with. The Seſſions of Oyer and Terminer are held but Twice in the Year, and each Time take about a Fortnight or Three Weeks. We hold Four Terms, each conſiſting of One Month, and each Term is followed by Sittings, which the Charter requires to occupy a Fortnight (if the Buſineſs be not ended before; the Buſineſs has ſeldom been done within the Fortnight) the Sittings which ſucceeded the June Term laſt Year took up Seven Weeks. Both in the Term and Sittings we daily try Cauſes. If the Grounds on which the Perſons were excuſed are true, and the Company would have received real Prejudice by their attending the Court one Month out of Twelve; how much more muſt it ſuffer by having their Servants called from their Employments for Three Quarters of a Year? In that Caſe we ſhould not be able (nor would it be proper if we could) rigorouſly to exact their Services, though they have tendered them.—With reſpect to the Gentlemen of the Army, it would be ſtill more improper.

Of the Three hundred and Twenty-three, One hundred and Four are Soldiers; many are Perſons excuſed by Rule; many, as Writers and Cadets of the laſt and preceding Year, are Minors; many are Non-reſidents; ſome are domeſtic Servants and Perſons too mean to ſuſtain the Truſt of a Juror; ſome are ſo obſcure, that although the ſtricteſt Search has been made after them by the Sheriff who they are, cannot be aſcertained. I have ſubjoined to the Names of the Petitioners, their proper Additions as delivered to me by the Sheriff; and by the Rules of the Court herewith ſent, it will appear who are exempted. After deducting thoſe who are diſqualified, and thoſe who have or may hereafter inſiſt on Exemptions, the Number will be reduced under One hundred; on theſe Perſons is to be thrown the Labour and Truſt of trying Cauſes, which take up almoſt the Year; a Weight too heavy to be borne by thoſe who have any Concerns of their own to manage. This Concluſion indeed is formed on an Idea of the Office of Jurors being confined to thoſe who deſire to undertake it; but there are perhaps a Number nearly equal of Britiſh Inhabitants, full as reſpectable, who have no deſire to incur the Burthen, and have not ſigned the Petition. An unſurmountable Difficulty of putting Trials by Juries in this Country, on the Conſtitutional footing which they are in England, ariſes from a natural Cauſe. This Climate will not allow us to ſit ſo long a Time on Cauſes as we ſhould be able to do in England. For the ſake of Appeals, all the Evidence muſt be taken in Writing, and moſt of the Witneſſes examined through Interpreters; all which neceſſarily increaſes the Length of Trials, and conſequently cauſes frequent Adjournments. On the Principles of our Laws, the Jurors ought to be locked up and kept from converſing with Strangers, from the Time they are impanelled, till they deliver in their Verdict. Here that could not be done without great Injury to Health; and if they are ſet at large, they will be liable to be tampered with, or at leaſt to receive Biaſſes from Converſation, and other Means of Information out of Court, which would unavoidably influence their Judgment, though their Intentions might be honeſt.

I have ſtated to your Lordſhip the apparent Cauſe of the Petition to the Court, and of that intended for Parliament; but the real Cauſe lies deeper.

The Effects of the Court within the Limits of Calcutta, and adjacent Diſtricts, has been the almoſt total Extirpation of open Violence: At a diſtance from this Place it has diminiſhed, and has compelled thoſe who perpetrated Offences before publicly, to act with more Caution and Secrecy. In Calcutta the Natives have Courage enough to bring Actions directly againſt the Britiſh Subjects; at a Diſtance they dare attack their Agents. It was not to be expected, that Men who acknowledged no Laws but their own Will, would patiently ſubmit to new Control, while they thought they had any Means of getting rid of it; though the Court has ever been galling to them, they have, till the preſent Time, confined their Attack againſt it, to clamorous Complaints of the Collections of the Revenue ſuffering Impediments and Diminution, and the People of the Country being ſubject to Hardſhips and Abuſes from the Miſbehaviour of thoſe who execute Proceſs. Thoſe Gentlemen whoſe Conduct to the Natives called for vindicatory Laws, became all of a ſudden their Patrons to protect them againſt the Oppreſſions of a Court of Juſtice inſtituted for their Benefit. As theſe Complaints, without being examined, found an eaſy Admittance on the Conſultations of the Governor General and Council, they hoped they would conſtitute a Body of Accuſation, which would be taken for Proof, and at once overwhelm the Court.

From the Eſtabliſhment of it to the preſent Period, it has been attacked by Charges kept profoundly ſecret from the Judges. When Complaints of the Nature before-mentioned have come to our Knowledge, we have deſired that they ſhould be fully inveſtigated, that we might apply Remedies to the Evil; but without Effect. We have promiſed, that if thoſe made againſt our Officers were founded in Truth, that we would ſeverally puniſh the Offenders. Notwithſtanding ſuch Deſires and ſuch Promiſes, not one ſingle Accuſation has been preferred to the Court with regard to Obſtruction in Revenues; and but One, and that of no great Enormity, againſt a Sheriff's Officer; and that Proſecution was ſet on Foot at my Suggeſtion.

Not having met with the Succeſs they expected by this Mode of Attack, they now change their Ground; and complain, that the Natives having experienced that they receive Juſtice equally with Britiſh Subjects, have acquired a Confidence and Inſolence which may be dangerous to Government.

It is deſired, that the Juſtice of the Court may be transferred from the Judges of His Majeſty's Britiſh Subjects, that this Sort of Danger ariſing from the Equality of Juſtice may no longer be ſuffered to exiſt.

In theſe Diſpoſitions, nothing has been wanting to form an open Attack upon the Court, but a Pretence; and the Cauſes of Creaſſey ſcarcely furniſhed one that was colourable.

Great Pains have been taken to prevail on the native Inhabitants to ſign a Petition, which, we have been informed, has been penned with greater Acrimony againſt the Court, than that which has been ſigned by the Britiſh Subjects; but, as we have Reaſon to believe, with ſo little Effect that it is likely to produce an Application to counteract the Efforts of the Engliſh Gentlemen. It would have been Matter of very little Surprize to us, if the Promoters of it had been ſucceſsful in procuring many Names, for moſt of the Black Inhabitants being connected with them by Intereſt, are liable to their Influence, and many of them are their immediate Agents. No Fraud, no Violence is committed but through the Medium of Black Agents; that they ſhould prevail on the Body of the Natives to attempt to undermine what they feel to be a Barrier between them and Oppreſſion, except it be by the Principle of Fear, we think we may pronounce to be impoſſible. Mr. Francis, by a Meſſage communicated to Mr. Juſtice Hyde and me, by Mr. Juſtice Chambers, prior to the Preſentment of the Petition to the Court, aſſured us, that though many Perſons who were cloſe connected with him, had been zealous in the Buſineſs, he had not directly or indirectly promoted it.

On ſeeing the Names of the Governor's Aid de Camps, and moſt of his Family and immediate Dependents, ſubſcribed to it, I took the Liberty of remonſtrating to him againſt the Impropriety of the Meaſure. He aſſured me, he was entirely ignorant of the Exiſtence of the Petition, till it was preſented to the Court; and that he then received the Firſt Information from me, that thoſe who ought to have conſulted him, had put their Names to it. He profeſſed a Deteſtation of the Attempt, and Reſentment againſt thoſe, who by their Acts might give Grounds of Suſpicion, that he had (as he expreſſed himſelf) been baſe enough to encourage or connive at it. He told me all he knew of it was this: "That Mr. Barwell, with much Concern in his Countenance, had ſome Time before informed him, in Council, that a Petition was going forward to obtain Juries; but that was not the worſt, for another was in Agitation to be addreſſed to the Governor General and Council, to require them (as Hoſtilities had been commenced in India againſt the French) to proclaim, that the Settlement was now under Military Law."—Mr. Haſtings ſaid, That by the Exertion of Mr. Barwell, he underſtood the laſt Attempt had been ſuppreſſed, and that he thought the other had died with it.

After a careful Peruſal of the Acts of Parliament and Charters which relate to the Eaſt India Company, I have not been able to find any Clauſe, which I can ſuppoſe to have given Origin to the Idea of proclaiming Military Law to be in Force, except in the Charter of the 26 George II. Page 447, 448, of the Company's printed Book; by which an Authority is given to "train Perſons to Arms, &c. and in Time of War and Open Hoſtilities to uſe and exerciſe Law Martial in ſuch Caſes as Occaſion ſhall neceſſarily require, and may legally be done." Which, we conceive, confines the Power of exerciſing Law Martial to Caſes in which it is neceſſary to uſe it for the Purpoſes of Military Array and Diſcipline, and by no Means authorizes the general Uſe of it, except perhaps when the Confuſion of War may have put the Settlement into that Diſtreſs, that of Neceſſity inter Arma ſilent Leges; but can never form a Pretext to make diſtant Hoſtilities (which in ſome Part or other of this Country hardly ever ceaſe) the Cauſe of ſuperſeding the Authority of the regular Courts of Juſtice.

Of the Execution of this extravagant Attempt, we entertain no Fears; for we are convinced, that the Governor General and Council will never be induced to give their Sanction to an Act, ſo impolitic, raſh, and illegal.

That Diviſion of the Army, which is now in Garriſon in Fort William, is Part of the Brigade commanded by Colonel Ironſide; the Engineers by Lieutenant Colonel Henry Watſon; and the Regiment of Artillery by Colonel Pearſe. The great Proportion of Military Names, ſhew the Activity and Temper of thoſe Bodies. Colonel Ironſide has acted with more Prudence than the other Two Colonels; for though he, and thoſe moſt immediately connected with him, have ſubſcribed the Petition, he declined convening his Officers, to obtain their Subſcriptions; therefore, though a great Majority have, all have not ſigned it; but all thoſe of the Engineers have. The Regiment of Artillery has, for the Sake of being exerciſed, been for ſome Months encamped about Eight Miles from Calcutta; Colonel Pearſe carried the Petition to the Camp; after a Field Day he convened his Officers, had the Petition read to them, and ſhewed to them, with his Signature to it. Thoſe Officers who were not then preſent, were afterwards ſent for, and the Petition ſhewn them in the like Manner. The Colonel, with great Warmth, informed us, in open Court, that "the Officers of his Corps had ſigned to a Man."

This Declaration was unprovoked by the Court; for knowing the Temper of the Gentlemen that attended, we ſimply read our Anſwer, as we had before done the Petition; and though many of them ſpoke to the Court, we kept a cautious Silence.

The Arrival of an Officer of Sir Eyre Coote's Character and Diſpoſition, at this critical Period, we eſteem a very fortunate Circumſtance.

As every Sinew of Government is relaxed by the unhappy Diſputes, which, for more than Four Years, have diſunited the Members of this Government, how far the Principles which predominate among His Majeſty's Britiſh Subjects here, actuated by their preſent Spirit, may carry this Oppoſition, or whether the ſame Ill-humours may not break out in ſome other Direction, we do not take upon us to foretel; but we have thought proper to give your Lordſhip the earlieſt and moſt authentic Account of the Diſeaſe, that, if it be thought of ſufficient Importance, ſome Remedy may be applied to it. In the mean Time, I am authorized by the Judges to give your Lordſhip the moſt ſolemn Aſſurances for them, as I do for myſelf, that, though we have ſtrongly expreſſed our real Sentiments, that you might thereby receive true and authentic Intelligence, yet we will, on all Occaſions, and under all Circumſtances, act with the greateſt Coolneſs, Moderation, and Caution, that we may not inflame the preſent, or provoke new Diſorders; and at the ſame Time, that we will not ſacrifice the Intereſts of Juſtice, or His Majeſty's Authority, to any Want of Firmneſs.

I have taken the Liberty to make frequent Mention of the other Judges. I have not done this without their Licence; for they have authorized me to acquaint your Lordſhip, that you may eſteem them to have concurred as fully in this Addreſs, as if they had the Honour of ſubſcribing their Names to it.

I have incloſed the Copies of the Petition to the Judges, and their Anſwer, together with Papers which immediately relate to them, in a ſeparate Cover. The Records, Evidence, and Proceedings, in the Cauſes alluded to, are ſo voluminous, that I did not think myſelf authorized to encumber your Lordſhip with them. I have therefore depoſited them, together with other Records, &c. with Meſſrs. Kerbey and Rooke, Barriſters at Law, who reſide in the Temple, and will, if they receive your Lordſhip's Orders, attend you with any of the Papers which you may demand.—I have not been able to uſe that Dilection in ſelecting the Cauſes, which I could have wiſhed; and find ſome of the moſt important have not been tranſcribed; which is owing to the Manner in which my Time has been occupied, the Term ending only on the 27th, and the ſhort Notice I have had of the Intention of the Petitioners; but from what I have tranſmitted, I hope it will appear to your Lordſhip's Satisfaction, that the Court has, in ſome Meaſure, anſwered the End of its Inſtitution; and that the Judges have acted with due Moderation, but have not betrayed the Duties of their Offices. Moſt of the Caſes which have been ſent to England, have been brought to Light by Means of Offices eſtabliſhed by the Court for the Benefit of Paupers; for the Oppreſſions in this Country have in general been ſo compleat, that they have ſeldom left Means to the Oppreſſed (if they have not met with Encouragement or Aſſiſtance) to obtain Juſtice by civil Suits; and by criminal Proſecutions they cannot procure Redreſs; and as they muſt be tried through the Medium of Britiſh Subjects, they would moſt probably fail of Succeſs; for we have had Inſtances of Juries having found their Verdicts in abſolute Contradiction to the Evidence and Directions of the Court.

Having expreſſed the joint Sentiments of the Judges, I muſt add for myſelf, I hope nothing that has been ſaid, will be underſtood as intended to draw down Vengeance on any Body of Men, and much leſs to operate to the Detriment of Individuals—I wiſh Remedy to be applied, not Puniſhment,

ment to be inflicted. It would give me more eſpecial Concern, that it ſhould have the Effect of prejudicing Colonel Pearſe, or of depriving the Public of his Services. He is an admirable Officer, very ingenious, and of unremitting Diligence in his Profeſſion. The utmoſt of my Deſire is, that he may receive ſuch Intimation from his Superiors, of the Impropriety of his Conduct, as a Military Man, as will correct his Behaviour in future.

GENERAL APPENDIX, Nº 32.

Copy of a Letter from Sir Elijah Impey to the Earl of Rochford.

Calcutta, 25 March 1775.

My Lord,

I HAD the Honour, by the Britiſh King, to inform your Lordſhip of the Arrival of the Judges, and the Opening of His Majeſty's new Court of Juſtice. I now take the Liberty, at the Deſire of the Judges, and in purſuance of your Indulgence, notified to me by my Lord Chancellor, to offer ſuch Obſervations as have occurred concerning the Adminiſtration of Juſtice in this Country; and have no Doubt that if they appear worthy, you will recommend them to His Majeſty's Conſideration.

The Town of Calcutta, by the great Credit which the Engliſh Government has within theſe few Years obtained, is become extremely populous, and its Black Inhabitants are daily increaſing. They are extremely litigious. From our Want of the Knowledge of the Language of the Country, and from the Mode preſcribed to us by our Charter, for the proceeding in Cauſes, they muſt take up much more Time than if they were determined by thoſe who underſtand the Language, and might proceed, as the Country Courts always have done, ſummarily. Were the Judges to ſit only on Cauſes between the Black Inhabitants of Calcutta, they could not go through with One Half of them. It would be of great Eaſe to us, and of infinite Advantage to the Inhabitants, if a Provincial Dewannee Adaulut was erected by His Majeſty's Authority, for this Town, for the Determination of Suits between the Native and Native Inhabitants of it, where the Cauſes of Action ſhall not exceed 500 Cᵗ. Rupees. If eſtabliſhed by His Majeſty's Authority, they might be controlled by the Supreme Court. I hardly dare to propoſe the ſame for the chief Towns in the Provinces at large, as the Legiſlature did not think fit in the laſt Act of Parliament to interfere with them; but I am authorized by the Governor General to offer it as his Opinion, that the Eſtabliſhment of Circuits to be performed by Engliſh Judges through the Provinces, would much contribute to the Advancement of Juſtice, and the Happineſs of the People. This, though I verily believe would be of great Advantage to the Company, by preventing the Oppreſſion of the People, cannot be done without their incurring a new Expence; it being impoſſible that the Judges could defray it out of their Salaries, which, though they may ſound conſiderable in Europe, are in Fact hardly adequate to the neceſſary Expences of living with ſome Degree of Dignity; without which, in this Country, their Powers would be of but little Efficacy. All Perſons in India look up to thoſe in Power; they judge of Power by outward Appearances; if thoſe Appearances are not in ſome Meaſure ſupported by the Officers of Juſtice, they will be thought to be without Power; and no one would apply to their Court for Juſtice, which nothing could perſuade them would be able to enforce its Decrees, if it had Spirit enough to make them.

The Governor General and Council have been much alarmed, leſt their Officers ſhould have Actions brought againſt them for acting under their Authority in the Courts in which they preſide, and in the Collections of the Revenue. I have offered my Service to attend as an Aſſeſſor, not claiming any Voice, but ſimply to adviſe, hoping that it might give a Degree of Sanction to their legal Proceedings, or prevent unneceſſary Suits againſt their Officers, to the Embarraſſment of their Buſineſs, and the Prevention of the ſpeedy Collection of the Revenues. If my Offer ſhould be accepted, I hope it will meet with the Approbation of His Majeſty, as I do it from no intereſted Views, but for the Good of the Company.

The Judges are very deſirous that the Court of Requeſts in this Town, which is limited at ſo ſmall a Sum as to be of little Uſe, ſhould have its Juriſdiction extended to 100 Rupees; this is a Sum for which the Supreme Court cannot take Bail, and in this Country is eſteemed very inconſiderable; indeed ſmall Suits take up great Part of that Time which ought to be employed on more important Cauſes.

The Want of Juſtices of the Peace, or Officers with Powers ſimilar to thoſe of Juſtices of the Peace, we have found extremely inconvenient; the Governor General, Council, and Judges, are the only Juſtices of the Peace, a Number much too ſmall, were they all to beſtow their Time in acting as Juſtices; but the Governor General and Council are occupied ſo much by other and more important Buſineſs, that the Judges cannot expect they ſhould attend to the Complaints of the Inhabitants in that Capacity. It is neceſſary they ſhould be attended to, and the Judges have thought it their Duty; they ſit every Morning (when not employed in Court) in Rotation; they are unable to go through the whole of the Buſineſs, and feel their Conſequence much diminiſhed, by attending to ſmall Felonies, Larcenies, and Breaches of the Peace, which take their Riſe among the loweſt and moſt miſerable of the People; they wiſh therefore to ſubmit it to your Lordſhip's Conſideration, whether it would not be proper that other Juſtices of the Peace ſhould be appointed for this Town, with a Power of trying certain petty Offences ſummarily. The Number I would propoſe ſhould be Thirty-one, that being the Number of Wards into which the Town, for the Purpoſes of Police, has by Mr. Haſtings been divided.

The People of the ſame Caſt, Religion, and Nation, generally inhabit together. I would therefore further ſubmit to your Lordſhip, whether it would not be adviſeable, as being more ſatisfactory and more beneficial to the People, that the Juſtices, or as I would rather call them, the Cutwalls (known Miniſters of Juſtice not diſſimilar to Juſtices of the Peace) ſhould be appointed, One for each Ward, out of the Caſt, Religion, or Nation, moſt predominant in the Ward. Should this Plan be adopted, it would be for your Lordſhip's Conſideration whether they ſhould not be nominated by the Supreme Court, to which they would be made amenable.

There is at preſent a Superintendant of Police. The Office was inſtituted by the preſent Governor General; it is of great Utility, and it is much to be wiſhed that he could be veſted with clear legal Authority.

Having taken the Liberty to make Propoſals for the Advancement of Juſtice, beyond the Plan already eſtabliſhed, I muſt beg Leave to apply to you for Relief in ſome Matters, which we have found great Obſtructions to Juſtice, in the Mode, and under the Powers by which it is at preſent adminiſtered.

The Office of Sheriff is extremely burthenſome; it had been profitable, and was therefore this Year very much ſolicited; but the Caſe is ſo much altered ſince the new Eſtabliſhment, that the preſent Sheriff muſt be a very great Sufferer, if not aſſiſted by the Company. He is obliged to execute Proceſs, both criminal and civil, over the large and extended Provinces of Bengal, Bahar, and Oriſſa. Were all Proceſſes (as they are at preſent) to continue to be executed by ſpecial Meſſengers from Calcutta, and the Expence to be paid by Suitors, Juſtice could never be carried far from this Town; was the Expence to be defrayed by the Sheriff, he muſt be ruined. This might in ſome Meaſure be obviated, if the Sheriff had Deputies properly diſtributed in the different Parts of the Country; eſpecially as Mr. Haſtings has eſtabliſhed a very regular Poſt, by which a Communication with them might be carried on by Letter. But Deputies he will not be able to procure, except, like him, they are compelled to accept their Offices. I would therefore propoſe, that a Power be given to the Supreme Court, to compel ſuch Deputies as the Sheriff ſhall appoint, and the Court approve of, to accept and execute thoſe Offices.

It is likewiſe found very burthenſome to Suitors, that Special Commiſſions ſhould iſſue into the Country for Examination of Witneſſes, and taking Affidavits. I would therefore recommend, that the Court might be empowered to appoint Commiſſioners to examine Witneſſes, and take Affidavits, and to oblige ſuch Commiſſioners to act.

The Court hath already felt great Inconvenience in being obliged to inflict upon Offenders the ſame Puniſhments which are inflicted in England for the ſame Offences. I hope I ſhall not incur your Lordſhip's Cenſure (though I know it would be a very unpopular Propoſition in England) the Subjects here on which the Law is to operate being ſo different from what they are in England, if I ſubmit to your Lordſhip's Conſideration, the Propriety of allowing the Supreme Court a diſcretionary Power of condemning an Offender convicted of a Crime not capital, to ſuch Puniſhment as he ſhall think his Crime ſhall deſerve. Tranſportation, from the Nature of it, is a Sentence which in this Country cannot be put in Execution. Impriſonment, to the inferior indolent Indian, is no Puniſhment; give him a Space to lay upon, Rice and Water, it is a Reward; Fines are very unequal Puniſhments, the Poor cannot pay them, and if the Perſon condemned is not of a Caſt or Rank to which Impriſonment would bring Diſgrace, the Richeſt here would not pay the ſmalleſt Fine to avoid it. Condemnation to the public Roads and Works is a Puniſhment commonly inflicted by the ancient and modern Laws of this Country, which would take off the Objection which is made to inflicting the ſame Puniſhment in England. We have likewiſe found great Impediments in the ordinary Adminiſtration of Juſtice, from Crimes which have their Source in the Religion, Manners, and Prejudices of the Natives. Men among the Hindoos of a high Caſt, and Muſſulmen of high Rank, think it ſo great a Diſgrace to take an Oath, that the utmoſt Rigour of the Laws is in many Inſtances inſufficient to compel them to it as Witneſſes, and there is no Intereſt great enough to induce Men of that Deſcription, who are of Reputation, to ſubmit to be ſworn. They would pay any Demand rather than anſwer on Oath to a Bill in Equity. I would ſubmit to your Lordſhip, whether the Court might not have Power given to it, on Conſideration of the Rank, Caſt, and Reputation of the Party, to diſpenſe with the Oath and accept an Affirmation, ſo that if it be falſe the Party might be ſubject to be puniſhed as for Perjury. A Woman Hindoo or Moor, if not of the Outcaſt of the People, can by no Treatment be provoked to apply to a Court of Juſtice, if ſhe muſt make her perſonal Appearance. There is no Proceſs ſhe would not ſtand out, rather than appear as a Witneſs. An Accuſation againſt her, if ſhe is brought forth to make Anſwer, is equal to a capital Sentence. The Indignity in either Caſe is ſo great, and her Feelings of it ſo ſtrong, that ſhe would not, after what ſhe would conſider ſuch a Diſgrace, ſubmit to live. As to the laſt, it is difficult to propoſe a Remedy; in the Two firſt Inſtances, perhaps, it might tend to Juſtice, if they were ſo indulged in their Prejudices, too rooted to be eradicated by Force or Perſuaſion, as to be examined by Commiſſioners, to whoſe Satisfaction the Identity of their Perſons ſhould be proved, and great Penalties impoſed on the Parties privy to ſubſtituting a wrong Perſon. In the Inſtance of Accuſation, the Women are moſt cruelly circumſtanced. I cannot preſume to offer any Remedy. Your Lordſhip's Humanity muſt be intereſted for them, and your Wiſdom may ſuggeſt a Redreſs which I find myſelf incapable of pointing out. The Judges will in the mean Time protect them as far as by Law they can, by expecting Proofs amounting almoſt to Conviction before they give the ſame Effect to the Accuſation by bringing them into Public, as it would have, had the Charge, though capital, been fully proved.

I have treſpaſſed too much on your Lordſhip's Time and Patience; which I have done with more Freedom; from the certain Knowledge I have, that if I have glanced at any Thing which your Lordſhip can make uſe of, for the Benefit of the People of this Country, and for the Advancement of Juſtice; you will be pleaſed with me for giving you an Opportunity of exerting the Goodneſs of your Heart. If I have failed, I ſhall ſtand excuſed to your Lordſhip, as your Candour will attribute the Trouble I have given you to the true Motive which has impelled me, the Deſire of promoting Juſtice, and a Zeal for His Majeſty's Service.

I am, &c.

E. Impey.

GENERAL APPENDIX, N° 33.

Sir Elijah Impey's Letter to Mr. Haſtings.

(COPY.)

Dear Sir,

WHEN I ſat down to write my Letters for Europe, I found myſelf ſo embarraſſed, that I reſolved not to proceed till I had another Opportunity of converſing with you on the Subject of Coſſijurah. I have been the more diſtreſſed on that Account, ſince a Perſian Paper has been ſhewn me, which purports to be an Order, that Perſons not within Two Deſcriptions, deſigned in that Paper, ſhall totally neglect the Proceſs of the Court; leaving it to themſelves to determine whether they are or are not within thoſe Deſcriptions.

Of this Order, or any Thing like it, I had but the leaſt Hint when I laſt converſed with you. I have no other Hope that it is not authentic, but becauſe you have not communicated it to me. Indeed, my Friend, the Embarraſſment you have laid me under, is the greateſt I have ever felt, and believe me I ſhould feel none were you not my Friend.

The Number of People you will have with you, will prevent my having an Opportunity to talk the Matter over this Evening; let me have a Quarter of an Hour's Converſation with you before I go to Court, probably it will be the laſt we can have before the Miſchiefs may be irretrievable. I poſſibly may recall to your Mind ſome Paſſages in former Converſations that may make a favourable Impreſſion on you.

I am, ſincerely and affectionately,

(Signed) E. I,

Sunday, 9th January 1780.

GENERAL APPENDIX, N° 34.

Mr. Hastings Letter to Sir Elijah Impey.

(COPY.)

Sunday Evening.

Dear Sir E.

I WILL call upon you in the Morning; and ſhall be happy if you can point out any Expedient to me, that can relieve me from my Embarraſſments, which, as I feel them, may be, and I believe are, greater than your's. In the mean Time let me remind you, that the Converſations which I have had with you, related, on my Part, to a totally different Object; as I avoided, and declared that I ſhould, every Diſcuſſion with you of ſuch Points as portended a Difference between the Court and Council, unleſs I ſaw a clear Proſpect of preventing it; and I aſſigned my Reaſons for this, which you may remember.

I am, dear Sir E.
Your's moſt affectionately,
(Signed) W. H.

GENERAL APPENDIX, N° 35.

Copy of a Letter from Sir Elijah Impey to the Earl of Rochford, dated Calcutta, 20th January, 1776.

N. B. This Letter is before inſerted, in N° 28 of the References to N° 3.

GENERAL

GENERAL APPENDIX, Nº 36.

A LIST of the Rajahs, Zemindars, and Renters, of the Diſtricts which compoſe the Provinces of Bengal, Bahar, and Oriſſa, with the Value of their reſpective Lands or Zemindarries.

BURDWAN DIVISON.

Diſtricts.	Names of the Rajahs, Zemindars, &c.	Jumma for 1184, Engliſh Style 1777-8.		
Ceded Lands.				
Burdwan	Ranny and Rajah Tiz Chuad	35,07,220	1	4
Midnapore and Jellaſore	Ranny Seromanny	8,19,411	13	—
Dewanny Lands.				
Beerbhoom	Rajah Aſſid Zemeen Cawn	5,31,321	7	16
Biſſenpore	Rajah Choiten Sing, and Rajah Dummooda Sing	3,73,481	—	—
Patchaet	Rajah Ragoonaut Narrain	52,151	—	—
Patchaet Petty Mohauls	—	16,876	6	15
Sheergauty Ballagaut	—	56,000	—	—
	Total Rupees	53,56,461	12	15

DINAGEPORE DIVISION.

Provinces.	Names of the Rajahs, Zemindars, &c.	Jumma for 1184, Engliſh Style 1777-8.			
Dinagepore	Rajah Bidenaut	14,60,444	12	12	2
Purnea (A)	—	7,83,375	—	18	1
Edrackpore	Rajah Gournaut	1,32,196	5	6	—
Rungpore (B)	—	8,37,890	9	19	—
Silberris (C)	—	2,29,817	1	9	3
	Total Sicca Rupees	34,43,723	14	5	2

(A.) PURNEA.

GENERAL APPENDIX, N° 36.

(A.) PURNEA.

Names of the Pergunnahs.	Names of the Rajahs, Zemindars, &c.	Jumma for 1184. English Style 1777-8.			
Havelly Purnea	Rajah Indernarrain	3,35,982	1	4	1
Gorary		9,645	11	6	3
Chuckwah		3,082	12	8	1
Taujepore	Sheo Naut and Gournaut	67,685	8	18	1
Baudore	Reesun Nesau and Bowcow Ullah	69,043	6	12	2
Surjapore	Fucker ul-dine Hussein	1,94,359	8	4	2
Colerah	Keerutt Chund	33,075	9	1	3
Cudduah	Chunder Narrain	17,500	7	7	—
Usjah	Hur Loll	17,857	10	8	1
Bownrah	Look Naut	12,874	8	1	3
Delourpore	Bowanny Persaud	18,050	5	18	1
Duppah	Cavul Nyon	16,123	5	5	2
Teracordah	Delour Sing	7,463	1	5	3
Powacolly	Hurry Sing	7,972	12	11	1
Seracummy	Rajah Bidenaut	806	1	8	1
Behaderpore	Chemon Loll	978	11	12	1
Beernagur and Bowannypore	Rajah Madoo Sing	93,761	4	12	3
Gowndwarrah		71,873	2	13	2
	Patna Sonat Rupees	9,78,136	1	1	—
	Or Sicca Rupees	7,83,375	—	18	1

(B.) RUNGPORE.

Chucklah Futtypore, 9½ Annas	Seebchund and Serydar	62,261	8	2	—
Chucklah Futtypore, 4½ A^s, or Bamindanga	Jagdesserry	53,943	11	4	—
Chuchlah Futtypore, 2 An^s, or Muntenna	Joydurgah	41,675	10	3	—
Chucklah Carjeehaut, 10 An^s	Collipersaud and Ramcunt	1,44,684	10	1	3
Chucklah Carjeehaut, 6 An^s	Shaik Kyrula and Gungagooin	1,16,316	5	18	1
Chucklah Kankneah	Alluck Nundah	96,201	—	—	—
Chucklah Bodah, &c.	Coghindernarrain	95,001	—	—	—
Pergunnah Tepah	Mun Mohun	30,001	—	—	—
Pergunnah Pangah	Pertaubnarrain	23,001	—	—	—
Pergunnah Bahfut	Rogobur	10,384	10	3	3
Pergunnah Oodassey	Nulmunney and Hurdeb	10,402	11	2	—
Haut Martuza Gunge	Oodenarrain Debee	1,201	—	—	—
Mhal Phousdarry	Jugmohun	152	9	—	—
Ophium Mhal		139	4	—	—
Pergunnah Buttis Hazzarry	Durrup Deo	28,334	8	—	—
Pergunnah Coondy, 4 An^s	Raagchund	19,431	7	—	—
Pergunnah Coondy, 3. 15gs.	Cossicunt	18,570	12	17	—
Pergunnah Coondy, 7 An^s	Roodresser	35,998	12	3	—
Pergunnah Coondy, 1. 5.	Jaggoonaut Battoocharjee	4,827	15	—	—
Cooch Beyhar	Rajah Dejindernarrain	72,407	6	9	—
	Kaz. Shi. Rup^s	8,64,936	13	3	3
	Deduct Batta and Sebundy	1,48,633	14	13	3
	Sicca Rupees	7,16,302	14	10	—

Names of the Pergunnahs.	Names of the Rajahs, Zemindars, &c.	Jumma for 1184, or 1777-8.			
	Brought forward	7,16,302	14	10	—
Baharbund	Lokinaut Nundee	1,02,027	8	—	—
Rangamatty	Caſſinaut Goſe	2,320	—	—	—
Baubunpore	Ramchund Chowdry	5,369	—	—	—
Shaikſhier	Brindah, Lucky, Oodey	3,158	8	—	—
Pallaſburry	Narrainchund, Kiſſen Hurry, &c.	2,888	4	—	—
Bulliehar	Hurry Deb, &c.	3,671	—	—	—
Sultanpore	Kootub Ullah	2,153	7	9	—
	Sicca Rupees	8,37,890	9	19	—

(C.) SILBERRIS.

Silberris	Buddee ul Zemaan	31,503	8	10	—
Chowgong	—	13,859	7	7	—
Barbeckpore	—	22,817	14	2	—
Chowrah	—	1,537	—	5	3
Sankney	—	1,558	—	6	—
Behar, &c.	—	29,101	—	—	—
Deyreah	—	25,761	6	4	2
Atteah	—	38,130	6	8	—
Burbazoo	Serajee Ally	36,811	8	—	—
Cogmary	—	28,736	14	6	2
	Sicca Rupees	2,29,817	1	9	3

MOORSHEDABAD DIVISION.

Districts.	Name of the Farmer.	Jumma of 1184, English Style 1777-8.			
Rajeſhahy	Nundulal Roy	26,13,013	7	4	—
Rokunpore	Lechmennarrain Roy, &c.	3,38,413	8	11	1
Luſhkerpore	Nurrinder Narrain and Mudnarroain, &c.	3,64,666	15	6	2
Chunacolly Khaſhmehals	—	4,98,752	6	19	—
Aſſudnagore	Kiſho Churrundaſs	49,000	—	—	—
Jehanguirpore	Briſſer, &c.	2,12,625	—	15	3
Sonapore	Subunſooram	280	—	—	—
Bockloer	Jagrenaut Juc	900	13	13	1
	Total Moorſhedabad Diviſion, Sicca Rˢ	40,77,652	4	9	3

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CHITTAGONG PROVINCE.

Districts.			Jumma, 1777-78.			
(Ceded Lands.)						
Chittagong		Dy Rs	4,58,087	9	4	—
Jorieff Bessy, of Pergunnah, Isanigore, &c. D°	The Number of Zemindars in this Province is 1730.	D°	2,280	8	3	
D°, Ramoo Chuckloreah, D°		D°	1,500	—	—	—
Sayer Mahl, D. M. Rs			37,289	8	—	—
			4,99,157	9	7	—
Dewanny Lands.		or Dm Rs	4,88,028	—	—	—
Tipperah	Rajah Kissin Mannick		1,33,000	—	—	—

RAJEMAHAL and BOGLEPORE PROVINCES.

Rajemahal, Name of the Farm.	Name of the Farmer.	Jumma of 1184. English Style, 1777-78.		
Conk Jole, &c.	Abudoolah and Wolda Mahomed Nassir	62,525	3	9
Shaubauzpore, &c.	Wolda Mahomed Nassir	2,217	7	—
Malduar	Zoja Kissen Nerain	23,040	3	13
Ackberpore, $\frac{8}{16}$	Cossinaut	8,891	6	1
Ackberpore, $\frac{8}{16}$	Bowaney Pershaud	7,965	11	19
Sultangunge	Zoja Cossinaut	9,001	—	—
Cossimnagur	Kishen Dao	1,625	7	9
Cossimnagur	Beijeyran and Permanund	516	1	2
Mungulpore, $\frac{2}{16}$	Kishen Persaud, &c.	5,101	—	—
Baubkey	Kherut Chund	331	8	8
Shahparrah	Saibram and Jankerpam	275	5	12
Mungulpore, $\frac{6}{16}$	Brijenaut Sing	1,939	11	1
Chuck Nuddeah	Setaram, &c.	2,502	5	19
Dushazarey, $\frac{10}{16}$	Chundermun	1,489	13	8
Havally Tandah	Ojoodeen and Golaub	2,551	—	—
Mahomedpore Jumshaidpore	Sied Mahomed Hussein	401	—	—
Dushazarey, $\frac{6}{16}$	Saibram	1,802	4	—
Alleypore	Ramdao and Surdao	346	1	—
Mucksoodpore	Ruzzenfur Hossein	201	—	—
Bahaurdurpore	Chamun Loll	1,607	9	11
Jouncaw	Zyne oob obdein	890	1	2
Chutruet	Rummun Sing	666	—	—
Dowlutpore	Shak Nudjiboolah	312	—	—
Enawitnagur	Myr Jugah	70	—	—
Dowgautchy	Huspawaut, &c.	751	—	—
Shaickpoorah	Abool Cossim Cawn	850	1	—
Parracurrum	Alley Reza	148	12	—
Nocurrum	Taik Chund	55	—	—
Govindpore	Parbutty Churn	200	—	—
Hurreypore	Davy Churn	35	—	—
Jote Letchmy	Hurnaut	29	—	—
Betteah Gopaulpore	Kishenpersaud and Loll Soondur	28,024	14	10
Gourhund	Ruttun Chund	5,408	11	—
	Sicca Rups	1,71,771	10	19

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BOGLEPORE PROVINCE

Name of the Farm.	Name of the Farmer.	Jumma for the Year 1777-8.		
Boglepore	Rooder Mohun, &c.	76,008	—	2
Colcong	Kerpanaut, &c.	53,219	4	—
Chahee	Hurnerain, &c.	28,007	5	10
Ditto	Kishen Sing	19,301	—	—
Ditto	Abdool Sing	7,501	1	15
Furkeyah	Hurrydut Sing	28,914	—	2
Baharbundpore	Seebnaut	2,754	3	3
Havilly Monghyr	Jaggernaut	30,970	—	14
Monghyr Bazar	Rada Kissen	5,666	10	13
Gurruckpore	Roodermohun	30,213	2	3
	Sonaut Rupees	2,82,554	12	2

DACCA DIVISION.

	Huzzory. Pergunnah's Names.		Malzamin's Names, where any are taken.	Jumma for 1184, English Stile 1777-8.			
Pergunnah	Jelaubpore			1,12,800	—	—	—
D°	Alaupsing	12 An^s		57,350	—	—	—
	D°	4 An^s	Manick Chund	18,936	—	—	—
	Abrahunpore		Noyandhor	3,725	—	—	—
	Arungpore		Becharam	12,500	—	—	—
Tallock	Aboob Khair			801	—	—	—
	Allinagur		Ram Lochund	1,400	—	—	—
	Azimpore		Manick Chund	8,943	—	—	—
	Abdoolapore		Nayandhor	4,404	—	—	—
	Aurungabad			220	—	—	—
	Amberbore			2,555	—	—	—
	Bulliah		Durgachurn Dutt	81,469	—	—	—
	Bahadapore		Coja Mickael	4,434	—	—	—
Tupay	Beermohun		Noyandhor	2,953	—	—	—
Perg^h	Beermohun		D°	5,471	—	—	—
	Bekumloll			1,212	—	—	—
	Baboopore		Lebnarain Bose	11,818	—	—	—
	Balliserah,	11. 3. 2.		3,492	—	—	—
	D°	4. 16. 2.		1,508	—	—	—
	Bahader Khan			1,149	—	—	—
	Bycantpore, &c.			47,389	—	—	—
	Chukanucandy,	9 An^s	Nurnarain Ghose	2,216	—	—	—
	D°	7 An^s		1,723	—	—	—
	Chauguldee			5,000	—	—	—
	Choudagong		Debnarain	3,000	—	—	—
	Coffeegigut		Noyandhor	1,029	—	—	—
	D°			—	—	—	—
	Canchuntpore		Nurnarain Ghose	8,914	—	—	—
	Coffeepore		Gunga Joy Doss	1,500	—	—	—
	Chunderseeker Chuckerbotty			6,741	4	—	—
	Curdie		Bulram	2,597	—	—	—

GENERAL APPENDIX, N° 36.

	Pergunnahs Names.	Malzamins Names, where any are taken.	Jumma for 1184, English Style 1777-8.
Pergunnah	Cudwah	—	43,896
	Chunderdeep & Jaffrabad	—	75,001
	Cheruliah Mudodia	—	17,001
	Coſſempore Sauſen Bauſun	Roy Chund Boſe	7,000
	Coſſeram Boſe	—	350
	Chaund Pertaub	—	804
	Cutſeckrah	Moyzedean	800
	Cudrabaud	Muttejuttee	2,400
	Duckenſhawpore	—	918
	Doorlay — 9 An^s	Roy Chund Boſe	26,226
	D° — 4. 5. 1.	—	12,787
	D° — 2. 14. 3.	Roy Chund Ghoſe	8,212
	Dundra Ettahbaud	Debnarain	11,000
	Duſparrah	—	1,700
	Duckenſavagepore	—	75,659
	Durgapore	—	7,273
	Bendraband Chund, &c.	—	2,654
Tuppa	Durgapore	Curiſmullah	5,000
	Dadpore	Gollomally	3,700
	Durga Gungaſſer	—	417
	Daukwah Puteah	—	777
	Eraudutnagur	—	59
	Edelpore	—	87,005
	Futtyjungpore	Manick Cund	4,542
	Terruckabaud	Coja Mickael	19,380
	Foorſut	Sheeb Chund Dutt	1,201
	Fuzabad	—	478
	Futtypore Bowany Doſs	—	488
	D° Kaſia	—	150
	Gopaulpore Mirzanagur	Noyandhor	18,120
	Godda Kaſſen Nagur	Annundic Ram	3611
	Gopaul Nagur	Jibbon Kiſſen	4,100
	Gonanundy, 7 An^s Jadooram	Bowany Churn	15,469
	D° — 2 D° Hurryhur	—	4,217
	D° — 1. 3. 3. Hurrybullub	Kiſſen Chund	2,298
	D° — 5. 16. 1. Puſroram and Rameſſer	—	10,703
	Govendpore, &c.	Roy Chund Boſe	2,434
	Gora Chund Gorkiſſore	—	3,871
	Goppy Kiſſen	—	111
	Gauzer Mhal	Godadhor	229
	Ganga Mundull	—	69,863
	Huzradee, 5 An^s	—	10,559 8
	D° — 5 An^s	—	10,559 8
	Huzradee	—	—
	D° — 6 An^s	—	12,343
	Homnabaud, 4. 13. 1.	—	29,158
	D° 7 An^s	Kerperam Ghoſe	46,721
	D° — 3. 6.	—	20,034
	D° — 10. 2.	Nurnarain Goſe	3,647
	D° — [illegible] 10.	—	3,440
	Hobibpore	Beyookiſſore	860
	Hukeem Antony	—	132
	Indurnarain Boſe	—	2,103
	Jaun Mahomed	Ram Lochun Meeter	1,645
	Jugdea	Debnarain Boſe	9,450
	Jelaulpore Nowarah	Roy Chund Boſe	1,950
	Joyram Huzrah	—	320
	Jaffernagur, &c.	—	936
	Joynagur	—	8,885

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	Pergunnahs Names.	Malzamins Names, where any are taken.	Jumma for 1184, English Style 1777-8.
Tuppa	Joque Cullub, &c.	Roy Chund Boſe	1,429
	Rojah Abrahim	Raſh Kiſſon	1,611
	Kelleejoory	Rage Kiſſon	1,533
	Kajenoor	Jumaludean	6,001
	Kulſee	Raſh Kiſſen	250
	Khuroolah Nooroolah		200
	Kiſſendeſpore		1,050
	Kiſſen Junker Goſe	Godadhor	501
	Kevulram Naut		477
Jowar	Luckunpore	Gunneſs Doſs	6,017
	Loll Mamamed		466
	Lucky Burdee	Maduram	301
	Momungſing, 12 Ans Diviſion		88,048
	Dº 4 Dº Dº		29,349
	Muzurdee 9 Dº		3,966
	Dº 7 Dº	Nayandhor	4,469
	Mayechaul	Roopram	10,001
	Mayechaul Keſmut	Dº	650
	Mahamed Hyat	Coja Nicaſs	8,800
	Muſtool		70
	Muſhrood Cutwally	Borauhdean	1,495
	Machuah Khall	Sheeb Chund Dutt	5,480
	Mahar, 6 Ans Diviſion	Dº	10,933
	Dº 2 Dº Dº	Ruſh Chund	8,053
	Dº 2 Dº Dº	Roſhun Khaun	3,965
	Meer Abdul	Mirzamahamed Aſſeem	11,149
	Meer Ahmud		501
	Mattyoolah Punawlah		1,800
	Mohadeb Moonſhee	Godadhor Sien	657
	Muſſurdee	Rugo Nundum	16,960
	Mahamed Ekbaul		8,700
	Mookimpore	Rach Kiſſon	742
	Mahamdpore		524
	Naſſeroojaul, 13 Ans Diviſion	Gocul Chund Ghoſe	33,149
	Dº 3 Ans Dº	Golaum Nobby	8,080
	Nazerpore	Ruſſoon Khaun	40,122
	Nuldee Booſhnah	Dº	7,383
	Narainpore, 8. 15.	Rebul Kiſſen Ghoſe	1,851
	Dº 7. 5.	Sheeb Churon Dutt	1,534
	Punchanund, &c.		495
	Noorulhaſſen Nagur, &c.	Gungahurry Muckergia	3,901
	Noorullapore, &c.		1,15,160
	Nookeſſen Doſs		1,113
	Oaterſayagepore	Debnarain Boſe	9,640
	Pountyjoore	Annunderam	3,120
	Peſheuſh Bazar Hoy	Nemaychurun	1,131
	Premnarain	Durgaperſaud	950
	Phitcarah	Mirza Aſſadollah	90,864
	Poorſuttum		48
	Ran Bowall	Munick Chund	15,700
	Ram Cauntſing	Ram Luckund Mitter	3,000
	Radacauntſien and Kiſſen Ramſien	Dº	3,366
	Ram Rage Kiſſen	Dº	106
	Rogoo Cerune	Dº	106
	Rage Chundſein	Gunga Joy Dutt	188
	Ramnagur	Ram Lochund Ghoſe	5,938
	Ruſſedpore, 6 Ans	Debnarain	950
	Dº 6 Ans	Roy Chund Boſe	950
	Ramanund Moktaram		989
	Ramnarain	Connoy Sircar	518

	Pergunnahs Names.	Malzamins Names, where any are taken.	Jumma for 1184, English Style 1777-8.	
Jowar	Rage Kiſno Sein	—	6,315	—
	Ramiſſer Dooby	—	822	—
	Ruttundee Kalkapore	Sheeb Chund Mookerjea	23,123	—
	Ram Gunga	—	21,149	—
	Ram Sunker	—	627	—
	Rambullub and Ramcaunt Chickerbutty	Godadhor Sien	4,767	12
	Ragenagur and Buzergomedpore	—	2,46,642	—
	Ramnaut, &c.	—	430	—
	Ramkiſſone	Godadhor Sien	450	—
	Ramkiſſer Boſe	—	11,106	—
	Ram Dio Dutt	—	1,745	—
	Ruſſelpore, &c.	—	55,724	—
	Ram Gunga Batta Charege	—	84	—
	Singar Gong	Coja Mickael	15,620	—
	Sooſung, 14 Anˢ	Buirah Chund	22,334	—
	D° — 2 Anˢ	Ram Tunoo	2,400	—
	Sitempurtaub	Manick Chund	1,023	—
	Shaiſtanagor Backlah	Noyandhor	14,000	—
	Seree Doſs	—	950	—
	Souſung Ramnaut Sing	Ram Luckund	330	—
	Shaiſtanagur Soonar Gong	D°	3,400	—
	Shuffreepore	D°	1,700	—
	Selimabad, 7 Anˢ	Noyandhor	12,000	—
	Selimabad, 5. 15.	—	43,001	—
	D° — 5. 15.	Rugoo Nundun Choudree.	43,001	—
	D° — 4. 10.	Gungajoy Hurry	32,873	—
	D° — 1. 10.	—	1,283	—
	Seeb Chund Sien, &c.	—	6,180	—
	Shazadpore, 7 Anˢ	Gunga Hurry	4,750	—
	Shazadpore Newarrah	D°	1,700	—
	Shazadpore, 3 Anˢ	—	1,650	—
	Saidpore	—	5,500	—
	Sudgee	Kooul Kiſſen Boſe	13,371	—
	Sundeep, 11. 18. 1.	—	37,662	—
	D°, 4. 1. 3.	—	12,922	—
	Shujapore	Ramforond Ghoſe	236	—
	Shajundpore	—	596	—
	Sutracundull	—	1,916	—
	Sujabaud	—	894	—
	Suttanabaud	Bungalie Loll	22,700	—
	Sheerpore	—	37,908	—
	Sautgong	Gunga Hurry Mockergia	1,280	—
	Shajadpore Tellie	Rajah Kiſſen Doſs	1,001	—
	Torah, 10 Anˢ 16. 1.	Rage Chund Boſe	44,036	10
	Turruff	Beccharam Chatugia	26,000	—
	Tagoor Govindpore	—	350	—
	Yarpore Khaunpore	—	272	—
	Zein Strahy	Sheeb Chund D°	19,054	—
	Talibabaud	Connoy Sircar	7,500	—
	Torah, 5. 3. 3.	Durga Churn	22,127	6
			25,14,698	—
	Curry Burry Sair	—	5,548	—
		Total of the Huzzoory Department	25,20,246	—

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Nizamut.	Pergunnahs Names.	Malzamins Names, where any are taken.	Jumma for 1184, English Style 1777-8.			
	Ameerpore	—	610	—	—	—
	Abbul Huſſen	—	832	—	—	—
	Ahmud Ally, &c.	—	2,745	—	—	—
	Aurungabaud, 3 Annas	Ram Lochun	1,282	—	—	—
	Aurungabaud, 13 Anˢ	—	1,374	—	—	—
	Buldakaul, &c.	—	1,80,831	—	—	—
	Burreecandy	Noyandhor	4,500	—	—	—
	Bammoy	Gollam Ally	1,674	—	—	—
	Benond Sunker	—	800	—	—	—
	Bolanaut Calliejoory	—	1,259	—	—	—
	Bunder Ekrampore	Berjoo Kiſſore	95	—	—	—
	Bolanaut, &c.	—	1,262	8	4	—
	Bulram Ghoſe	—	401	—	—	—
	Bowall	Bengally Naut	19,036	—	—	—
	Bickrampore	—	26,991	—	—	—
	Bydenaut, &c.	—	1,542	10	3	2
	Burgo Ram Soubaram, &c.	Ram Lochund	47	5	16	2
Dhee	Counul Ram, &c.	Dº	481	—	—	—
	Cutwallyparah	—	2,301	—	—	—
	Callyſunker	—	605	—	—	—
	Chaund Pertaub Lucky Narain	—	3,095	—	—	—
	Dº, — — Ram Mohun	—	5,600	—	—	—
	Dowhaur	—	680	—	—	—
	Dowlutpore	—	1,850	—	—	—
	Durgaperſaud	Noyandhor	1,209	—	—	—
	Dumroy, &c.	—	723	—	—	—
	Eedgah	—	1,525	—	—	—
	Eſſaupore, &c.	—	2,146	—	—	—
	Enaut Khan Mahomed	—	50	—	—	—
Tupah	Gopaulpore	Soubaram	548	—	—	—
	Hurrynarrain	—	15,000	—	—	—
	Iſſaukabad	—	3,628	—	—	—
	Juſmunt Gopoſe	—	11	—	—	—
	Koorckoye	Coja Michael	10,495	—	—	—
	Kivul Kiſſen Sing, &c.	Gopaul Kiſſen	1,082	—	—	—
	Lutteefpore	—	1,701	—	—	—
	Mukeemabad	—	6,790	—	—	—
	Meerbauker	Coja Gregory	2,650	—	—	—
	Maddarepore	—	1,251	—	—	—
	Mujeedpore	—	578	10	17	—
	Mahamud Ally	—	775	—	—	—
	Mahamed Sied Cawn, &c.	—	697	9	—	3
	Mahamed Jookey, &c.	—	171	—	—	—
	Meer Maſſoom, &c.	—	180	—	—	—
	Meer Mahſum	—	236	10	17	—
	Mootadah Khonkar, &c.	—	9	—	—	—
	Mahamed Eſop Khonkar, &c.	—	1,010	—	—	—
	Mochedypore, 9 Annas	Nundarrain Ghoſe	1,745	—	—	—
	Noyabaud	—	3,177	—	—	—
	Nurſing Gonghadhor	Ram Rutton Shoor	1,389	—	—	—
	Nyauz Ally	—	5,400	—	—	—
Jowar	Nulwah Cote	Ram Rutton Shoor	502	—	—	—
	Nulwah Cote Rugo Ram Mullick	—	799	—	—	—
	Nurſing Hurrain	—	8	—	—	—
	Nettoynund	—	63	—	—	—
	Oooter Shawpore, &c.	Joy Chund	6,001	—	—	—
	Perchundee	—	8,769	—	—	—
	Paindabeg, &c.	—	35,610	11	2	—
	Paunrel, 10 Anˢ	—	649	—	—	—

	Pergunnahs Names.	Malzamins Names, where any are taken.	Jumma for 1184, English Style 1777-8.			
Jowar —	Baunrel, 4 A^s	—	527	4	—	—
	D°, 2 A^s	—	312	12	—	—
Dee —	Pulwan	Ram Lochun Paulet	997	—	—	—
	Padries Tallook	—	2,261	—	—	—
	Runjaump	—	543	—	—	—
	Ramkiſſenpore Ram-Hurry	—	828	—	—	—
	Ramkiſſenpore Shubram	—	469	—	—	—
	Radah Kiſſon, &c.	—	3,635	—	—	—
	Ram Raja Sien, &c.	—	1,137	14	5	—
	Rookunudee	—	486	—	—	—
	Raſh Kiſſor Bul	—	139	—	—	—
	Ram Kiſſen Jelkerria	—	98	—	—	—
	Ramchund Chuckerbutty	—	1,536	—	—	—
	Roopram Sien-Ram Kiſſer Boſe	—	35	12	2	2
	Ramkiſſor Boſe	—	215	—	—	—
	Rubby Cawn	—	71	—	—	—
	Sorail	—	46,107	—	—	—
	Seerechaul	Abdul Beg	3,800	—	—	—
	Sampore	—	3,502	—	—	—
	Serampore	Ram Lochun	2,211	—	—	—
	Shawpore	—	1,550	—	—	—
	Shuffepore	Bowanny Ram	1,200	—	—	—
	Shaiſtanagur	—	1,141	—	—	—
	Sookerullah	—	130	—	—	—
	Sheeb Chund Sien	—	105	—	—	—
	Sheerbram Dutt	—	504	—	—	—
	Syed Ally Khan	Shobaram	5,174	—	—	—
	Soowar Gong, &c.	—	25,640	—	—	—
	Sheeb Narrain Boſe	—	119	—	—	—
	Sannund Bullie	—	59	—	—	—
		R^s	4,80,807	12	8	—
	Sairs					
	Bazar Furridabad	—	328	10	8	—
	Bujentry	—	1,940	1	8	—
	Chandina	—	2,910	15	—	—
	Cheruz	—	1,095	10	14	—
	Damdarries	—	821	3	15	—
	Hima	—	135	8	7	—
	Maye	—	349	3	16	1
	Numuck	—	119	14	3	3
	Peſhcuſh Dewannee	—	219	—	—	—
			7,920	3	12	—
	Sylhet Province	—	2,00,025	5	—	—
	Total Mhals of the Nizamut Department	—	4,88,728	—	—	—
	Total Amount of the Huzzoory Department	—	25,20,246	—	—	—
	Sylhet Province	—	2,00,025	5	—	—
	Total Dacca Diviſion, Sicca Rupees	—	32,08,999	5	—	—

GENERAL APPENDIX, N° 36.

CALCUTTA DIVISION.

Pergunnahs.	Names of the Zemindars, Rajahs, &c.	Jumma for 1184, English Stile 1777-8.			
Ceded Lands.					
Zemindars Portions.					
Pergunnah Calcutta	Sontoſe and Ramjoy Roy	73,343	8	15	1
Magurah	D° D°	1,55,265	10	13	—
Hattiaghur	Sontoſe and Kiſſen Roy	69,558	7	17	3
Cauſpore	Nondo Dulaul	20,175	3	10	2
Midden Mull	Collyperſaud	98,999	4	7	—
Shawpore	Jenamuddy and Maynudy	7,810	1	19	3
Petchacooley	Calyſoncare Roy	40,047	15	4	—
Shawnagore	Jenamuddy, &c.	10,889	10	3	2
Dokenſagore	Chundychurn Chowdry	4,271	14	17	2
Mooragotcha	Kennooroy Lucknarain	1,94,506	7	1	2
Ghore	Keſſenchurn Roy	26,054	9	10	2
	Total Zemindars Portions, Sicca Rˢ	7,00,922	14	—	1
Remaining Portions.	*Names of the Farmers.*				
Pergunnah Calcutta	Bobanychurn	78,377	13	7	—
Magurah	Samſunder	51,027	14	7	—
Hattiaghur	Berjomohon Sircar	1,13,909	8	—	—
Cauſpore	Parbuttychurn	4,758	10	—	—
Midden Mull	Monohor Roy	709	3	—	—
Shawpore	Berjomohon Sircar	14,505	—	—	—
Balliah	Samounder Chattorjee	82,003	—	—	—
Buridgehutty	Berjomohon	81,151	—	—	—
Azimabad	Manick Chatterjee	1,08,000	—	—	—
Khorry	Berjoomohon	63	—	—	—
	Total remaining Portions	5,34,505	—	14	—
	Brought down Zemindars Portions	7,00,922	14	—	1
	Total Ceded Lands Sicca Rupˢ	12,35,427	14	14	1
Ponchawn Gong		50,001	—	—	—
Bundypore, &c.		258	11	3	—
Tope Beer	Rajah Ramlochund	2,988	13	1	2
Town of Calcutta		88,196	13	9	—
Shair Mahls					
Haut and Buzar					
D° Chowkeydarry Tax		36,544	12	7	—
	Total	1,77,990	2	—	2
	Ceded Lands	12,35,427	14	14	1
	Total Sicca Rupees	14,13,418	—	14	3
Dewanny Lands.					
Mahomed Shahy	Moyender Soncor Govindo	2,38,098	9	8	—
Mahomed Aminpore	Toſel, Phouſdar of Houghley	2,70,092	12	1	2
Boderpore Shomeſcar	Goordaſs	10,044	2	18	2
Rajebarry, &c.	Rajah Rajebollob	16,728	8	13	2
Sontoſpore	Nozmedy	598	8	2	—
Barrow	Ramram	28	9	—	—
Remaining Mahls, the Balance whereof entirely paid up		21,83,877	13	14	1
	Total Dewanny Lands	27,19,464	15	17	3
	Ceded Lands	14,13,418	—	14	3
	Total Calcutta Diviſion Sicca Rupˢ	41,32,883	—	12	2

SUBAH BEHAR.

Name of the Farm.	Name of the Farmer.		Settlement for Bahar Year 1185, English Style, 1777-8.		
Pergunnah Farmer.					
Shairgauty	Rajah Golam Huſſein Kⁿ	Sᵗ	49,508	9	—
Cuſmar	Ramgopaul	Sᵃ	47,100	—	—
Moorarpore and Gyah	Huſſein Cooly	D°	64,501	—	—
Sunout	Rajah Meterjeet Sing	D°	2,11,189	—	—
Arnol Muſſorah	Ballgovind	D°	1,09,929	15	6
Gyaſpore	Meer Soban Ahmud	D°	78,000	—	—
Havily Behar	Joyſing Roy	D°	54,000	—	—
Sanrah Behar	Ballgovind, &c.	D°	44,474	6	3
Tillawrah	Akbar Ally Khan	Sᵗ	75,001	—	—
Rutty Gudhaſſon	Ahmud Ally Khan	D°	58,000	—	—
Talooka of Derg Beja Sing in Saraſſa	Derg Beja Sing	D°	21,231	2	9
Bycontpore	Hurraſſchund	D°	1,300	—	—
Beempore and Shajehanpore	Sootychund	D°	2,700	—	—
Kiſmut Mannorah	Fyze Ullah Beg	Sᵗ	4,800	—	—
Fulwarry	Durrumjuſs	Sᵃ	31,500	—	—
Serb Mahal	Saudoochurn Metre	Sᵗ	10,000	—	—
Leſlie and Barker Gunges	Davypurſaud	Sᵃ	3,500	—	—
Dutch Factory Nuzzurannah	—	D°	10,000	—	—
Saddaurut	Naviez Uddee Khan	D°	1,800	—	—
Baddullah	Omrou Sing	D°	1,300	—	—
Pate Nacçauſe	D°	D°	1,300	—	—
Iſmael Khooly Khans Jaghire	Ludjah Sing	D°	7,000	—	—
Atty Aſgus D°	Dulſook Roy	D°	275	—	—
Rajah Murledars Serſhicum	Himut Behadur	D°	1,305	—	—
Arrah	Mirza Coſſim Beg	Sᵗ	96,779	8	—
Barragowan	D°	D°	15,001	—	—
Bojepore	D°	D°	1,15,626	—	—
Powarrah	Buxyram	D°	27,405	—	—
Perroo and Nunnoor	Gongah Biſſam	D°	69,000	—	—
Dinnarah	Santooke Roye	D°	9,323	3	—
Beehia	Darryram	D°	1,08,312	3	—
Chainpore Saſſarams	Reza Kooly Khan	D°	3,51,000	—	—
Serris Kotomba	Rajah Narrain Sing	D°	1,75,001	—	—
Charcowan	Mahomed Ruffee	D°	68,000	—	—
Havily Rotas	Runjeet Sing	D°	12,384	2	—
Nurhut Samoy	Nutta Khan	—	1,31,541	—	—
Bullecah	Bowany Laul	—	35,001	—	—
Buſſarrey	Buxyram	—	28,000	—	—
Giddore	Aſhmud Beg	—	5,841	12	—
Coofra	Waheyd Ally	—	17,500	—	—
Sircar Terhut	Roy Mohunlaul	—	2,24,109	7	6
Ramchawur	Muddun Taccoor	—	1,887	2	9
Hatty	Behadur Sing	—	7,671	11	3
Haavy and Gurchawer	Soolton Sing	—	4,266	6	6
Sircar Chumparum	Aſhmud Ally Khan	—	1,52,624	2	6
			25,45,980	9	—
Pergunnahs Amaany.	*Collectors.*				
Shahpore Munneer	Meer Muſhruff	Sᵃ	43,538	6	6
Havily Aizeemabad	Diahnaut Roy	—	51,701	—	—
Pelieh Maldah	Olad Ally	—	53,795	8	—
Ekyll, &c.	Hoſſein Ally Khan	—	58,493	—	9

GENERAL APPENDIX, N° 36.

Name of the Farm.	Name of the Farmer.	Settlement for Bahar Year 1185, English Style 1777-8.		
Pergunnahs Amaany.	*Collectors.*			
Saraſſa	Kullub Ally Khan	65,899	15	3
Hodgipore	Meer Bauber Ally	53,899	5	—
Negurbuſty	Mahomed Tuckey Khan	16,856	7	3
Niahpore	Torrahchund	18,292	14	9
Dinroar	Mirza Feroze Ally	44,275	7	3
Mulkey	Abdul Kurreem Khan	19,490	6	6
Ballagutch	Meer Bauber Ally	16,991	11	3
Biſſaweah	Torrachund	1,32,026	14	—
Tuppah Murowah	Shaick Ahmud Ally	26,836	7	3
Nurſingpoor Koora	Mirza Eſuf Beg	7,060	5	3
Huſſypore	Meer Muſtapha	87,331	15	—
Sircar Sarum	Ahmud Ally Khan	7,16,364	—	3
	Total Subah Behar S^t Rup^s	39,58,834	5	3

East India Houſe,
28th Feb^y. 1781.

Errors excepted.

John Annis,
Auditor of Indian Acco^ts.

GENERAL

FH
MVSEVM
BRITANNICVM

GENERAL APPENDIX, Nº 38.

EXTRACT of Proceedings of the Governor General and Council, in their Revenue Department, 5th September 1777.

Form of a Bundobuſty Sunnud, to be given to thoſe Zemindars, with whom a Settlement is made for their own Zemindarries.

Be it known to the Zemindar of the Pergunnah of ———, in the Chuckla of ——— in Bengal, the Paradiſe of Regions:

Whereas the Settlement of the Revenue of the ſaid Pergunnah has, from the Commencement of the Bengal Year 1184, been made with, and committed to him: He is religiouſly and faithfully, and with Truth and Rectitude, to carry on and attend to the Duties and Offices annexed thereunto; and keeping, by his good Conduct, the Body of Ryots, and the whole Community, ſatisfied and contented. He is to cauſe the Agriculture and Improvement of the Country to be punctually carried on at the proper Periods, that the Marks of Population and Improvement may abundantly appear. He is, Month by Month, punctually to pay the Revenue of Government, agreeable to the Settlement, the Kiſtbundy of which has been delivered into the Office, under his own and his Paiſhcar's Signature. He is not to collect from the Ryots the Articles of Dorymangum, Soad, Batta, and other Aboabs. He is to make the Collections on the Aſſil and Aboab, allowed by Government, up to the End of the Year 1183, excluſive of which he is to take nothing more. He is not to collect from the Ryots the Balances of the Years during the former Management, but in Caſes where Government direct it. He is to realize ſuch undiſputed Balances as the preceding Farmer may, in the Preſence of any Ryots, eſtabliſh to be due by them; the Amount of which he is to pay in, wherever he may be directed. He is not, without the Orders of Government, to reſume any Gardens or Tanks, or any Lands known under the Denomination of Dewitter, Burrmutter, Mohutran, Aime, Mudul-maſh Piran, Fackeran, Lackerage, and Dehaat Aſteemrar; neither is he to make any new Grants without the Sunnud of Government. He is, in the uſual Manner, to make the Poolbindy within his own Limits; and if he be therein neglectful, he is to know himſelf to be anſwerable for whatever Loſſes may thereby be occaſioned. He is to be ſo careful of the Guard and Protection of the Highways within his Limits, that Travellers and Paſſengers may continue to paſs and repaſs with Confidence and Safety. He is not to harbour any Thieves or Robbers within his Boundary. If (which God forbid) the Poperty of any Perſon ſhould be ſtolen or plundered, he is to produce the Perſons of the Thieves or Robbers, together with the Property, which he is to cauſe to be returned to the Owner, and theſe Delinquents to be delivered up to Government. The Bayee Jumma and Maroche, &c. having been prohibited by Government, and deducted in the former Settlement, he is not to collect theſe Articles from the Ryots.

Prepared by Order of the Honourable the Governor General and Council of Revenue.

(Signed)
G. G. Ducarel, Superintendant of the Records.

Khalſa,
2d September, 1777.

Form of a Muchulka, being a Counterpart of the Sunnud to be executed by thoſe Zemindars with whom a Settlement is made for their own Zemindarries.

I who am Zemindar of the Pergunnah of ———, in the Chuckla of ———, in Bengal, the Paradiſe of Regions.

Whereas the Settlement of the Revenue of the ſaid Pergunnah has, from the Commencement of the Bengal Year 1184, been made with, and committed to me. I am religiouſly and faithfully, and with Truth and Rectitude, to carry on and attend to the Duties and Offices annexed thereunto; and keeping, by my good Conduct, the Body of Ryots, and the whole Community, ſatisfied and contented. I am to cause the Agriculture and Improvement of the Country to be punctually carried on at the proper Periods, that the Marks of Population and Improvement may abundantly appear. I am, Month by Month, punctually to pay the Revenue of Government, agreeable to the Settlement, the Kistbundy of which has been delivered into the Office under my own and my Paishcar's Signature. I am not to collect from the Ryots the Articles of Derymangum, Sood, Batta, and other Aboabs. I am to make the Collections on the Assil and Aboab allowed by Government, up to the End of the Year 1183; besides which I am not to take any thing more. I am not to collect from the Ryots the Balances of the Years during the former Management; but in Cases where Government direct it, I am to realize such undisputed Balances as the preceding Farmer may, in the Presence of any Ryots, establish to be due by them; the Amount of which I am to pay in wherever I may be directed. I am not, without the Orders of Government, to resume any Gardens or Tanks, or any Lands known under the Denomination of Dewutter, Burmutter, Mohuteran, Aima, Mudutmash, Peeran, Fackeeran, Lackerage, and Dehaat Assemraf; neither am I to make any new Grants without the Sunnud of Government. I am, in the usual Manner, to make the Poolbundy within my own Limits; and if I be herein neglectful, I am to know myself to be answerable for whatever Loss or Damage may be thereby occasioned. I am to be so careful of the Guard and Protection of the Highways within my Limits, that Travellers and Passengers may continue to pass and repass with Confidence and Safety. I am not to harbour or give Place to any Thieves or Robbers within my Boundaries. If (which God forbid) the Property of any Person should be stolen or plundered, I am to produce the Persons of the Thieves or Robbers, together with the Property, which I am to cause to be returned to the Owner, and these Delinquents to be delivered up to Government. The Bajeeil Jumma and Marocha, &c. having been prohibited by Government, and deducted in the former Settlement, I am not to collect these Articles from the Ryots. I am to give Receipts for the respective Kists paid by the Ryots, together with an Annual one on the Adjustment of Accounts at the End of the Year. I am not to take either Nuzzer, Selamy, or Tewary, from the Ryots; neither am I to give such to any Person. In case of my Revenue falling in Balance, I am to cause to be sold an equivalent Portion of my Zemindarry, to pay up the Arrears to Government.

Prepared by Order of the Honourable the Governor General and Council of the Revenue.

(Signed)
G. G. Ducarel, Superintendant Khalsa Records.

Khalsa,
2d September, 1777.

Aumlnama to the Farmers.

Be it known to ————

Whereas the Office of the Farmer of the Pergunnah of ————, in the Chuckla of ————, has, from the Commencement of the Bengal Year 1184, been committed to him: He is, agreeable to the undermentioned Articles, to carry on and attend to the Duties and Offices annexed thereunto.

1. He is to account for the Revenue agreeable to the Doul Bundobust; and if any Balances arise, he is to be answerable for them.

2. He is not to collect from the Ryots the Balances of any former Years, or those of the Time of the preceding Farmer; but in Cases where Government may direct it, he is to realize such undisputed Balances as may be fairly proved to be due from the Ryots to the former Farmer, and pay their Amount wherever he may be directed.

3. He is not, without the Orders of Government, to resume any Gardens or Tanks, or any Lands known under the Denomination of Dewetter, Burmutter, Aima, Madutmaish, Peeran, Fakeeran, Lackerage, and Exemrar Dehat; neither is he to make new Grants of any such Lands, without a Sunnud from Government.

4. He is, in the usual Manner, to make the Poolbundy at the proper Season, within his own Limits; if he neglect this, he is to be answerable for whatever Damage may be occasioned thereby.

5. The Bazee Jumma and Marowcha, &c. having been prohibited by Government, and deducted in the Settlement, he is not to collect these Articles from the Ryots.

6. Exclusive of the constituent Parts of the former Malguzany, as contained in the Doul Bundobust, he is not to collect a Dam, or Derm, from the Ryots; on whom he is cautiously to avoid

committing any Oppreſſions, in any Manner whatſoever: In caſe of ſuch Acts he will be puniſhable by Government, and his Farm will become Khâs.

7. He will collect the Revenue agreeable to the eſtabliſhed Doul Bundobuſt, and the Kiſtbundy, which has been formed agreeable to the Periods of the Harveſts; and he is not, by demanding the Revenue from the Ryots at an improper Seaſon, to diſtreſs them, by putting them to Expence.

8. He is not to take from the Ryots either Nuzer Selamy or Sewary; neither he is to give ſuch to any Perſon.

9. He is not to make any Claims of Deduction from his eſtabliſhed Rent, either on account of Drought, Inundation, or Mortality or Flight of his Ryots, or other Pretence; but to be anſwerable for all Loſs incurred thereby; and whatever lawful Advantage he may make by Improvement of his Farm is, during the Term of his Leaſe, to be his own Profit; the Government has nothing to do with it.

10. He is, in the Collection of the Revenues, to pay Attention to the Preſervation of the Lands and the Country. At the Expiration of his Farm he is to give an Account of the Produce, as well of the eſtabliſhed Jumma as of whatever Profit may have ariſen from his own Improvements.

11. He is to make the Collections on the Aſſel and Aboab allowed by Government, up to the End of the Year 1183, and to take nothing more; neither is he to demand from the Ryots any Articles of Derymangun, Sood, Batta, or other Aboab.

12. He is to be ſo careful of the Guard and Protection of the Highways within his Limits, that Travellers may paſs and repaſs with Confidence and Safety. He is not to harbour any Thieves or Robbers; and if any Perſon's Property be either robbed or ſtolen, he is to produce the Perſons of the Thieves or Robbers, with the Property, which he is to cauſe to be returned to the Owner, and theſe Delinquents to be delivered up to Government.

13. He is to give Receipts to the Ryots for each Kiſt paid in by them, together with an annual Releaſe, on adjuſting their Accounts at the End of the Year.

Prepared by Order of the Honourable the Governor General and Council of Revenue.

(Signed)

Khalſa,
2d September 1777.

G. G. Ducarel, Superintendant of
the Khalſa Records.

Cabooleat for Farmers, where the Lands are let in Farm.

1. I am to account for the Revenue agreeable to the Doul Bundobuſt; and if any Balances ariſe, I am to be anſwerable for them.

2. I am not to collect from the Ryots the Balances of any former Years, or thoſe of the Time of the preceding Farmer; but in Caſes where Government may direct it, I am to realize ſuch undiſputed Balances as may be fairly proved to be due from the Ryots to the former Farmer, and pay their Amount wherever I may be directed.

3. I am not, without the Orders of Government, to reſume any Gardens or Tanks, or any Lands known under the Denomination of Dewetter, Burmutter, Aima, Mudutmaiſh, Peeran, Fakeeran, Lackerage, and Eſtumrar Dehat; neither am I to make new Grants of any ſuch Lands, without a Sunnud from Government.

4. I am in the uſual Manner to make the Poolbundy at the proper Seaſon within my own Limits; if I neglect this, I am to be anſwerable for whatever Damage may be occaſioned thereby.

5. The Bazee Jumma and Marowcha, &c. having been prohibited by Government, and deducted in the former Settlement, I am not to collect theſe Articles from the Ryots.

6. Excluſive of the conſtituent Parts of the former Malguzarry, as contained in the Doul Bundobuſt, I am not to collect a Dam or Derm from the Ryots, on whom I am cautiouſly to avoid committing any Oppreſſions, in any Manner whatſoever; in caſe of ſuch Acts, I ſhall become puniſhable by Government, and my Farm will become Khâs.

7. I ſhall collect the Revenue agreable to the eſtabliſhed Doul Bundobuſt, and the Kiſtbundy, which has been formed agreeable to the Periods of the Harveſts; and I am not, by demanding the Revenue from the Ryots at an improper Seaſon, to diſtreſs them by putting them to Expence.

8. I am not to take from the Ryots either Nuzzer Salemay or Sewary; neither am I to give ſuch to any Perſon.

9. I am not to make any Claims of Deduction from my eſtabliſhed Rent, either on account of Drought, Inundation, or Mortality or Flight of my Ryots, or other Pretence; but to be anſwerable for all Loſſes incurred thereby: And whatever lawful Advantage I may make by Improvement of my Farm, is, during the Term of my Leaſe, to be my own Profit; the Government has nothing to do with it.

10. I am, in the Collection of the Revenues, to pay Attention to the Preſervation of the Lands, and the Country; at the Expiration of my Farm, I am to give an Account of the Produce, as well of the eſtabliſhed Jumma, as of whatever Profit may have ariſen from my own Improvements.

11. I am to make the Collections on the Aſſil and Aboab allowed of by Government, up to the End of the Year 1183, and to take nothing more; neither am I to demand from the Ryots any Articles of Derymangun, Sood, Batta, or other Aboabs.

12. I am to be ſo careful of the Guard and Protection of the Highways within my Limits, that Travellers and Paſſengers may paſs and repaſs with Confidence, and in Safety. I am not to harbour any Thieves or Robbers; and if any Perſon's Property be either robbed or ſtolen, I am to produce the Perſons of the Thieves or Robbers, with the Property, which I am to cauſe to be returned to the Owner, and theſe Delinquents to be delivered up to Government.

13. I am to give Receipts to the Ryots for each Kiſt paid in by them, together with an annual Releaſe on adjuſting their Accounts at the End of the Year.

Prepared by Order of the Honourable the Governor General and Council of Revenue.

(Signed)
G. G. Ducarel,
Superintendant of the Khalſa Records.

Khalſa,
2d September 1777.

GENERAL APPENDIX, Nº 39.

Copy of the Report of Mr. George Rous, Counſel to the Eaſt India Company.

IN obedience to the Orders of the Court of Directors, I have examined the Papers referred to me, reſpecting the Adminiſtration of Juſtice by the Supreme Court in Bengal. It was my Wiſh to have employed the Leiſure of the Summer upon this Subject; but as the neceſſary Materials could not then be procured, I am now compelled to execute within a few Days a Report, which from the Novelty, Extent, and Importance of the Matter, ought to have been the Work of many Months.

In peruſing theſe Papers, the Firſt Object, from its Novelty and Importance, that fixed my Attention, was the Diſpute between the Governor General and Council inveſted with the ſupreme Power of Government, and the Judges inveſted with the ſupreme Power of adminiſtring Juſtice within the Provinces of Bengal, Bahar, and Oriſſa. The Contention has proceeded ſo far, that a military Force has been employed to reſiſt the Proceſs of the Court; and this extraordinary Interpoſition avowed and juſtified upon the Plea of Neceſſity; ſince, without this Interpoſition, the Governor General and Council affirm, that your Revenues muſt have been loſt, the Natives of high Rank diſgraced, and the Provinces involved in Confuſion. It is remarkable, that the Judges on One Hand, and the Council on the other, were perfectly unanimous in every Meaſure taken throughout this unhappy Contention. This Fact will lead a candid Mind to look for the Source of this Contention, not in the Temper of Individuals, but in the Peculiarity of their Situation.

GENERAL APPENDIX, Nº 39.

In no Country of which I have read, did Two Powers like theſe ever ſubſiſt, diſtinct and independent of each other. In States where the Governments are limited by Law, the Laws neceſſarily preſcribe Rules of Conduct to every Perſon entruſted with Authority, at leaſt in the *internal* Government of the Country. In States where the Governors are abſolute, the Laws muſt bend to their Will. In the one, the *Laws* are interpreted by the Judges; in the other, the *Will* of the Ruler prevails; but in *both*, one of theſe Powers is *ſupreme*. In Bengal, the whole civil and military Government of the Provinces, and the Management of the territorial Acquiſitions and Revenues, are veſted in the Governor General and Council, in Words ſo large and comprehenſive, as leave no Doubt of the Intention of the Legiſlature: Indeed it were abſurd to ſuppoſe, that where a ſmall Number of Perſons from this Country govern an extenſive Territory, in which a deſpotic Power has ever before prevailed, and collect the Revenues of that Territory adapted to the Nature of their former Government, any certain known Rules of Conduct can be preſcribed to thoſe entruſted with ſuch an Authority; but it were yet more abſurd to ſuppoſe, that the Laws of this Country could be applied to ſo novel a Situation. The Intention of the Legiſlature is perfectly plain; and the Diſtinction between private Acts of Individuals and public Acts of Government, has been recognized by the Judges as a *Principle*; but from a rigid Adherence to Forms, and a ſtrict Interpretation of Law, unavoidable in Judges where private Rights are concerned, Men have been ſubjected to large Damages for Acts done on the Diſcharge of a public Duty, where no corrupt or improper Motive was even ſuſpected. Men have conſequently been unwilling to act without an Indemnity from the Company; and had they not been protected by the Council, all the Functions of Government muſt have been ſuſpended. From the ſame Cauſes, though the excluſive Power of managing the Revenues was recognized by the Judges, as belonging ſolely to the Council, yet the Proceſs of the Court, which could not be withheld, produced ſuch Confuſion and Diſorder as deeply affected the Revenue, even where the final Deciſion of the Court was adverſe to the Parties ſuing out the Proceſs. The Judges likewiſe, by an Interpretation of the Charter (whether juſt, or not, does not become me to decide) declared their Juriſdiction to extend over all Farmers of the Revenue, and conſequently that theſe Perſons might be amenable to Engliſh Laws for every Act done in the Management of their Farms, to the inferior Renters, the Ryots, or even to their own Servants. At length, an Attempt to execute the Proceſs of the Court on the Zemindar of Coſſijurah, in a Manner ſhocking to the Prejudices of the Natives, and deſtructive at the ſame Time to the Revenues, brought Matters to a Criſis. The Judges had no Power to moderate, or even delay the Proceſs within their ſuppoſed Juriſdiction, ſitting in the Adminiſtration of Juſtice. The Council therefore were compelled either to abandon their Charge, to permit the Country to be involved in Confuſion, and the Revenues to be loſt, or to reſiſt by Force; a Reſiſtance which, however irregular, under all the Circumſtances, appears to me to have been a neceſſary Duty. This violent Contention aroſe from a Defect in the Inſtitution, which had eſtabliſhed Two Powers perfectly diſtinct and independent, without providing any Means to prevent their Colliſion.

It ſeems to me, that in an unſettled State, where Dominion muſt be upheld by the Sword, and the Country regulated, as the Occaſion requires, by a large diſcretionary Power, no Man ought to be reſponſible, as an Individual, for Acts done in any Department of Government, unleſs ſome *private Perſonal Motive* be proved; much leſs ought his Conduct to be tried by the Rigor of *Engliſh Laws*. This Exemption, which may be inferred from the late Act of Parliament, however juſt and neceſſary, will be merely nominal, if Men, defending themſelves in an Action, are bound to ſtate their Defence with Preciſion, to ſet forth former Practice as *a Cuſtom*, to prove the Act within the Power *exerciſed* under former Governors and Councils, if, in ſhort, they are entangled by all the *ſtrict Rules* of Evidence, which permit not official Papers to be read, where the original Draught can by Poſſibility be procured; and, after all, it will depend on the good Pleaſure of the Judges (like other Men, not averſe to Power) *how far* this Exemption ſhall extend, or how far the Adminiſtration of Government ſhall be independent of their Controul.

It may therefore deſerve Conſideration, whether a Reference to the Council might not be proper, to know if the Act imputed to be done *under a general or ſpecial Authority*, derived from them, making their Certificate concluſive Evidence of this Fact, yet leaving the Judges Authority to proceed, where *Corruption*, or even *a private Perſonal Motive* was imputed as the Foundation of the Action entertained by the Court.

The Legiſlature certainly did not intend to ſubject the Natives in general to Engliſh Laws; and the Judges in Bengal have accordingly recognized the Authority of the Courts of Cutcherry, &c. eſtabliſhed throughout the Provinces. Yet the Effect of this Principle is in a great Meaſure loſt by the *Forms* of the Court, and *ſtrict Rules* of Evidence, which the Judges cannot relax. A Queſtion of Mahomedan Law ariſing in one of theſe Courts, a Power was delegated, according to former Practice, to the Cauzee and Muſtees, to ſecure the Effects until the Cauſe was decided; to examine, on the Spot, the Facts relative to ſome Deeds ſuppoſed to be forged, and to report theſe Facts, with their Opinion of the legal Effects of the Deeds, and of the Rights of the Parties independent of the Deeds. Upon this Report not impeached, the Court gave Judgment. An Action was brought in the Supreme Court at Calcutta, againſt the Cauzee and Muſtees They then, for the firſt Time, learnt that no *judicial* Power could be *delegated*; conſequently that they acted *without Authority*, when they attempted to mitigate the Damages, by ſhewing the Circumſtances: they were embarraſſed by the *defects of their Notice*, afterwards by the *Rules of Evidence*; particularly they were not able to prove the perſonal Delegation of an Authority to act for her, by a Woman of Rank, who could not appear without Diſgrace; the public Acts of her neareſt Relations in the Houſe, agreeably to the Cuſtom of the Country, being rejected, as no legal Evidence of her Conſent. With this Defect fell the whole of the Exculpation; for no Proof could be adduced, that the *whole* Proceeding was open and candid, Part with the Conſent and Approbation of thoſe whoſe legal Authority from the Party could not be eſtabliſhed. Leſſer Difficulties aroſe from *ſome Papers* not being *tranſlated*, and others being fair Copies, when the foul Draughts were the *Originals*; thoſe tendered were therefore rejected. Thus, Men acting, as they conceived, in the Execution of a public Duty, without an *improper Motive imputed*, were condemned to pay Damages to the Amount of 300,000 of Rupees. One periſhed in the Gaol, the others now languiſh in Confinement, without a Poſſibility of Relief, except by Parliament.

The Gentlemen who decided on the Report of others, becauſe they neither *did*, *nor could underſtand* the ſubject themſelves, were taught likewiſe, that *judicial Authority* could not be *delegated*, and were condemned in conſiderable Damages, with Coſts of Suit. The Gentlemen, eager to vindicate their own Character, and prove the Juſtice of their Deciſion, preferred an Indictment for the Forgery of the Deeds; which was found by the Grand Jury, but quaſhed by the Court, becauſe the Deeds were not within the Acts of Parliament for puniſhing that Crime.

Such is the Report of this Caſe made to the Governor and Council, by their Law Officers, at great Length, and with much apparent Correctneſs. If any Part of it be true, the Inference ſeems to be, that ſome Corrective muſt be applied. Perhaps the Certificate of the Governor General and Council might here be received as *concluſive Evidence*, that the Perſons acted as *Judges of a Court, conſtituted* by their Authority; and the Certificate of the Judges might be received, as Proof that the Acts *complained of* were done under *their Sanction*, the Supreme Court always being permitted to proceed, where corrupt or improper Motives were made the Foundation of the Complaint.

I now proceed to a Subject of the laſt Importance, but on which I am leaſt able to form an accurate Judgment; the Effect of the Inſtitution of the Supreme Court, in the Ordering and Collection of the Revenues. I apprehend, that the Power on this Subject, which is now veſted in the Governor General and Council, belonged originally to the Dewan, who let the Lands, had the whole Management of the Revenues, and that all Cauſes relative to the Revenues were decided in his Courts, diſtinct from thoſe of the civil Government of the Province. The Crops raiſed by the immediate Cultivators of the Land being the great Source of Revenue, though the Means of Cultivation are ſupplied by others who have an Intereſt in the Produce, and who by various Gradations become reſponſible, with their Securities, for the Rent reſerved to Government, it is evident that the Intereſts of all theſe Parties can only be ſecured by a prompt and vigilant Adminiſtration of Juſtice on the Spot. The general Alarm which the Claim of Juriſdiction by the Supreme Court of Calcutta over theſe Perſons has ſpread, appears from the Petitions of the Renters of the Patna Province, and other Diſtricts, requeſting to be diſcharged from their Engagements with the Company. Nor is it difficult, from the Inſtances collected in the numerous Papers I have peruſed, to diſcover that their Apprehenſions are well founded. Perſons confined by the Courts of Dewannee Adaulut are colluſively arreſted by Proceſs from Calcutta, or removed by Habeas Corpus, where the *Language* is as unknown as the *Power of the Court*; the Proceſs is abuſed to terrify the People; frequent Arreſts made for the ſame Cauſe; and there is an Inſtance of the Purchaſer of a Zemindarry near Dacca, who was ruined by Suits commenced by Paupers, Suits derived from Claims prior to his Purchaſe, and who was at laſt condemned in conſiderable Damages for an ordinary Act of Authority in his Station. Hence the Natives of all Ranks become fearful to act in the Collection of the Revenues; the Renters, and even hereditary Zemindars, are drawn away or arreſted at the Time of the Collections, and the Crops embezzled. If a Farm is ſold, on Default of Payment, the new Farmer is ſued, ruined, and diſgraced. Ejectments are brought for Land decreed in the Dewannee Adaulut. A Talookdar is ruined by the Expence of pleading to the Juriſdiction, though he prevailed; and in an Action where 400 Rupees were recovered, the Coſts exceed 1,600. When to theſe Abuſes incident to the Inſtitution of the Court itſelf, derived from the Diſtance of thoſe amenable to its Juriſdiction, and from the invincible Ignorance of the Natives reſpecting the Laws and Practice of the Court, we add the Diſgrace brought on the higher Orders, it will not, perhaps, be raſh to affirm, that Confuſion in the Provinces, and a prodigious Loſs of Revenue, muſt be the inevitable Conſequences of upholding this Juriſdiction. The Zemindar of Duckenſavagepore, upon Pretence that he had been arreſted, and afterwards reſcued, has his Houſe broke open, and even the Apartments of his Women rudely violated. Another Zemindar ſurrenders himſelf to Priſon to avoid the like Diſgrace to his Family. At length an Attempt to arreſt the Zemindar of Coſſijurah was repelled by Force, the People riſing in his Defence. A writ of Sequeſtration then iſſued, and a conſiderable Force being ſent by the Sheriff, the Zemindar fled, carrying off his Women. The principal Servants likewiſe fled for Fear of being diſhonoured. The Officers then ranſacked the Houſe, entered the Apartments of the Women, ſeized the Female Ornaments, violated the Place of Worſhip, which none of a different Religion are ever permitted to approach, and deſpoiled it even of the Image. Thus by the regular Exe-

cution

cuſion of a Writ from the Supreme Court, an Outrage was committed, ſuch as the Natives, with one Voice, declared had never been attempted in the worſt of Reigns. Where the Principle was ſo extenſive; where the Proceſs of the Court could not be withheld; and where the Conſequences were ſo dangerous, Reſiſtance by Force became, in my Apprehenſion, a *neceſſary Duty* on the Part of Men entruſted with the Government of the Country. I am ſorry to obſerve, that the Judges at this Period ſeemed to have loſt all Temper, particularly in the ſevere and unexampled Manner of confining Mr. Naylor, Attorney to the Company, who merely procured Information from the Office, of the Number of Men employed by the Sheriff, and once gave Directions to the Vakeel of the Zemindar to withhold his Warrant of Attorney; both Acts done in Obedience to the Governor General and Council.

Whether the Repreſentation given of theſe Tranſactions, in the Papers referred, be correctly juſt or not, it is impoſſible for me to pronounce; probably the Evils may be ſomewhat exaggerated; but the Nature of the Subject decides, that theſe Evils muſt be enormous. The Natives, in their Petition, repreſent the Lawyers as the Maſters of Right, and conceive, that whomſoever they favour, he muſt prevail. It is obvious, indeed, that an *intricate Syſtem* of *unknown Laws*, adminiſtered in an *unknown Tongue*, at a *great Diſtance* from the Reſidence of the Parties, muſt be a plentiful Source of Abuſe, which no Wiſdom in the Judges can poſſibly correct: And from the peculiar Manner of collecting Indian Revenues it is *manifeſt* that the more general Effects of the Syſtem muſt, in this Department, be greatly increaſed.

What Remedy can be admitted, the Court of Directors will beſt learn by conſulting Gentlemen converſant with the Subject, and poſſeſſed of local Experience. That the Supreme Court ſhould be excluded from a direct Juriſdiction, ſeems neceſſary. What ſuperintending Power the Court may ſafely poſſeſs, to puniſh a Breach of Integrity in thoſe employed, or how far the Proceeding of theſe Gentlemen may be rendered open and public by Rules and Forms preſcribed to them, it would be Preſumption in one ſo little informed as myſelf to decide. But if practicable, ſomething of this Kind ought ſurely to be attempted.

Of the Eight Heads of Requiſition contained in the Petition of Europeans reſident in Bengal and Bahar, the moſt important has already been diſcuſſed, viz. to define the Perſons amenable to the Juriſdiction of the Supreme Court. I ſhall therefore only add, that perhaps it may be ſafer to correct ill Conſequences of the Juriſdiction, by Proviſions adapted to the Evils exiſting, as theſe ſhall be diſcovered by Experience, than to attempt general Definitions or verbal Reſtraints.—Of the other Heads, the Second and Fourth relate to Matters, reſpecting which I have no Evidence, and on which, conſequently, I can form no Judgment, except that the Fourth Requeſt appears ſcarcely practicable.

On the other Heads, which depend on general Principles, I ſhall ſubmit my Opinion to the Court of Directors with the ſame Freedom which I have thought it my Duty to employ in other Parts of this Report.

The Firſt is a Claim to a Trial by Jury in Civil Caſes.

The Trial by Jury, conſidered as a Part of a free Government, is an admirable Inſtitution, becauſe it gives Security and Independence to every Individual; as Jurors, taken by Lot from the People, have a common Intereſt in the Protection of all. But this Inſtitution can only exiſt to a good Purpoſe, where, from the Manners and Habits of the whole Nation, a perfect Equality of Rights can be eſtabliſhed. In Bengal, the conquering Nation are few in Number; and the Terror of a Power that muſt be maintained by the Sword, gives to the Individuals of that Nation a perſonal Superiority, which extends far beyond the Exerciſe of public Authority. This had been the Source of much private Injuſtice, while the timid Native was unable to diſtinguiſh between the Act of a private Oppreſſor and the Act of the Government; or if he could diſtinguiſh, had no Means of Redreſs. This was one of the great Evils which the Supreme Court of Juſtice was intended to remove: And if the Terror does begin to wear off from the Minds of the Natives, as deſcribed in the Petition, I apprehend the Loſs of Influence ſuppoſed will be amply compenſated by an increaſing Attachment to a Government which affords Protection. Admit the Trial by Jury in Civil Caſes, and the Oppreſſors themſelves will decide the Degree of Compenſation to be given for their own Wrongs; for to mix Natives on the Juries muſt, from the Difference of Manners, Laws, Language, and above all, from the ſuperior Influence of the European, be merely a nominal Diſtinction. In Criminal Caſes, where it is little liable to Abuſe, the Trial by Jury at preſent very properly ſubſiſts.

The Fifth Head, to circumſcribe the Power of the Court in the Admiſſion and Rejection of Evidence, as a general Propoſition, is an idle Demand. I have already ſubmitted, in what Caſes, for the Purpoſe of excluding the Juriſdiction of the Supreme Court, a legiſlative Proviſion may be proper to render certain Acts concluſive Evidence. But in all other Caſes, the Power of the Judges on this Subject is already ſufficiently circumſcribed by Law; and where the Judges ſhall err, the

Errors may, like the Errors of other Courts, be corrected on Appeal. The latter Part of this Requeſt, to preſerve the Evidence rejected as the Ground of an Appeal, if not already provided for by the Forms of the Court, ſeems not unreaſonable; but Care ſhould be taken, that in giving to one Party the Means of obtaining Juſtice, the other be not injured; the Appellant, therefore, muſt defray the Expence.

The Sixth, is a Requiſition for diſtinct Judges for the Law and Equity Sides of the Court. This Diſtinction, to which the Court of Exchequer in England is an Exception, and which Diſtinction is, I believe, almoſt peculiar to this Country, has probably ariſen from the Forms of our legal Proceeding, and from the Trial by Jury in Civil Caſes; neither of which being adopted in Bengal, it is almoſt unneceſſary to add, that the Appointment deſired would be an uſeleſs Expence.

The Seventh, is to give an Appeal from the Supreme Court to the Governor General and Council. Should this Meaſure be adopted, it were better at once to aboliſh the Court; for the Court could ſubſiſt to no good Purpoſe, when its Decrees were thus rendered wholly dependant on the executive Power. The Governor General and Council would poſſeſs a deſpotic Authority, not moderated by the ſmalleſt Reſtraint; for it would depend on their Pleaſure how far their Inſtruments ſhould be reſponſible for the moſt corrupt Conduct.

The laſt Requiſition, is to veſt a Power of ſtaying Executions in Criminal Caſes, until His Majeſty's Pleaſure be known, in the Governor General and Council. This Requeſt probably originates from the well-known Caſe in which the Rigour of an Engliſh Act of Parliament, derived from the amazing Extent of public and private Credit in Great Britain, was applied to a Native of Bengal; in which Country the like Severity had never been deemed neceſſary, or been known in their Laws; I mean the Execution of Nundcomar for Forgery. Without preſuming to form a Judgment on the Merits of that Caſe, I may venture, in the Cauſe of Humanity, to affirm, that a ſimple Power of ſuſpending Execution does not ſeem liable to Abuſe.

Thus, in the very imperfect Manner which the Time will permit, I have ſubmitted my Thoughts to the Court of Directors. To riſk Opinions on ſo new, ſo extenſive, and ſo important a Subject, is not perhaps, the Conduct of a cautious Man. This, however, is a Character which I do not covet; and I have only, as an Apology, to add, that theſe Opinions are not voluntarily obtruded, but candidly, though decidedly given in the neceſſary Diſcharge of my Duty to the Company.

Geo. Rous.

Inner Temple, December 5th 1780.

GENERAL

GENERAL APPENDIX, Nº 40.

An ACCOUNT of Charges incurred ſince the Eſtabliſhment, and in the Support and Maintenance, of the Supreme Court of Judicature, fixed and incidental; on account of the Proſecution and Defence of Suits inſtituted by or againſt the Company, in the ſaid Court; Damages ſuſtained by the Company, on account of Decrees iſſued by the Supreme Court, for Claims litigated therein; and of Loſſes incurred by Remiſſions granted to Zemindars, or Farmers of the Revenue, on account of Loſſes or Interruptions occaſioned by Suits inſtituted againſt them, their Under Renters and Officers.

Charges incurred ſince the Eſtabliſhment, and in the Support and Maintenance, of the Supreme Court of Judicature, fixed and incidental.

1774. October.	Jail ſtated Allowance for Repairs		54 — —	
November.	Ditto		54 — —	
December.	Ditto	54 — —		
	Paid the Salary of the Chief Juſtice, and the Three Puiſne Juſtices, from the 31ſt of March 1774 to the 1ſt of January 1775, being 9 Months, at C. Rˢ 21,666 10 8 per Month, or 2,60,000 per Annum	1,95,000 — —	1,95,054 — —	
	N. B. The Exchange reckoned at 2 per Current Rupee, the Chief Judge £. 8,000 per Annum, and the Puiſne Judges £. 6,000 each			1,95,162 — —
1775. January.	Paid the Judges Salary this Month	21,666 10 8		
	Repairing the great Chair which the Chief Juſtice ſits in, and Bar for the Priſoners	26 2 —		
	Jail ſtated Allowance for Repairs	54 — —	21,746 12 8	
February.	Paid the Judges Salary this Month	21,666 10 8		
	Further Repairs to the Bench and Bar, and making a large Table, &c. for the Court	176 10 6		
	Judges Office for Chairs, &c, and Stationary expended	155 8 6		
	Jail ſtated Allowance for Repairs	54 — —	22,052 13 8	

GENERAL APPENDIX, Nº 40.

1775. March.	Paid the Salary of the Judges this Month		21,666 10 8	
	Carpenter's Work, and ſundry extra Charges in preparing Paper, Caſes, and Preſſes, for the Muniments, &c. and Charges removing Sundries from the lower Rooms to the upper Part of the Houſe		128 15 —	
	Stationary ſupplied by the Buxey		113 12 9	
	Jail, extraordinary Repairs to both upper and lower Rooms, and raiſing the Wall which ſurrounds the Jail, 4 Feet, at the Requiſition of the Court, and agreeably to Eſtimate, by Order of the Board of Inſpection		5,700 14 —	27,610 4 5
April.	Paid the Judges their Salary this Month		21,666 10 8	
	Extra Charges for account of Carpenter's Work on Tables, Chairs, and Almaries		65 12 —	
	Jail ſtated Allowance for Repairs		54 — —	
	Paid the Salaries or Allowances of the following Officers of the Court, from the firſt Sitting thereof, the 22d of October 1774, to the 31ſt March 1775.			
	Mr. Richardſon Mac Veagh, as one of the Maſters, being 5 Months and 10 Days, at Arcot Rupees 666. 10. 8. per Month	3,555 8 11		
	Paid the ſame Perſon, as Keeper of the Records and Muniments, for 5 Months and 10 Days, at 166. 10. 8.	888 14 2		
		A. Rs 4,444 7 1	or 4,799 15 9	
	Mr. Edwd. Shrimpton, as Mr. for ſaid 5 Months 10 Days, at 666. 10. 8.	A. Rs 3,555 8 11		
	Paid the ſaid Perſon, as Accountt General to the Supreme Court, for Ditto, at 166. 8. 10. per Month	888 14 3		
		A. Rs 4,444 7 2	or 4,800 — —	
	Paid Mr. James Prichard, as Clerk of the Crown, 5 Months 10 Days, at the Rate of 6,000 Arcot Rupees per Annum	2,666 10 8		
	The ſame Perſon, as Clerk to the Chief Juſtice, at 3,000 A. Rs per Annum	1,333 5 4		
		A. Rs 4,000 — —	or 4,320 — —	

1775. April.	Paid Goneſham Daſs, as Aſſiſtant Interpreter, 5 Months 10 Days, at 1,000 per Annum		444	7	1				
	Paid the ſame Perſon, as Interpreter to the Chief Juſtice, at 1,000 A. Rs per Annum		444	7	1				
		A. Rs	888	14	2	or	960	—	—
	Paid Nicholas Jebb, as Portugueſe and Bengal Interpreter, to the 28th February, at the Rate of 1,000 A. Rs per Annum, being 4 Months 10 Days		361	1	10				
	Paid the ſame Perſon, as Interpreter to Juſtice Le Maiſtre, for Ditto		361	1	10				
		A. Rs	722	3	8	or	780	—	—
	Paid Mr. W. M. Beckwith, as Clerk of Indictments, to the 31ſt March, 5 Months 10 Days, at 3,000 Arcot Rupees per Annum	A. Rs	1,333	5	4	or	1,440	—	—
	Paid Mr. James Durnford his Salary, as Clerk to Mr. Juſtice Le Maiſtre, at 3,000 A. Rs per Annum, 5 Months 10 Days	A. Rs	1,333	5	4	or	1,439	15	9
	Paid Mr. North Naylor, as Clerk of the Papers and Depns, at 4,000 A. Rs per Annum, to the 31 March	A. Rs	1,777	13	1	or	1,920	—	6
	Paid Mr. A. Fraſer, as Sealer, from 22d October to 31ſt March, 5 Months 10 Days, at A. Rs 2,000 per Annum, or 166. 10. 8. per Month	A. Rs	888	14	2	or	960	—	—
	Paid Mr. Richard Litchfield, as Clerk of the Papers and Depoſitions, at A. Rs 4,000 per Annum, or 333. 5. 4. per Month	A. Rs	1,777	13	1	or	1,920	—	6
	Paid Mr. Thomas Bowker, as Prothonotary at Arcot, Rupees 6,000 per Annum, or 500 per Month		2,666	10	9	or	2,880	—	—
	Paid Mr. William Johnſon, as Clerk to Mr. Juſtice Chambers, at 3,000 A. Rs per Anuum, or 250 per Month, 5 Months 10 Days	A. Rs	1,333	5	4	or	1,440	—	—
	Paid Mr. S. Peat, as Clerk to Mr. Juſtice Hyde, for 5 Months 10 Days, at 3,000 A. Rs per Annum, or 250 per Month,	A. Rs	1,332	3	—	or	1,438	12	3
	Paid Robert Meldrum, as Tipſtaff to Mr. Juſtice Hyde, at 1,000 A. Rs per Annum, 5 Months 10 Days		444	7	1	or	480	—	6
	Paid John Nichols, as Tipſtaff to Mr. Juſtice Le Maiſtre, at Do, for Do	A. Rs	444	8	2	or	480	1	9
	Paid James Burnet, another Tipſtaff, at Do, for Do	A. Rs	444	7	1	or	480	2	—

1775. April.	In the Ecclesiastical Side.										
	Paid Mr. Charles Seally, as Register, to the 31st March, 5 Months 10 Days, at 2,000 Arcot Rupees per Annum — — —	888	14	3	or	960	—	—			
	Paid Mr. John Mills, as Examiner, to the 31st March, 5 Months 10 Days, at A. Rs 1,000 per Annum —	441	11	8	or	477	—	9			
	In the Equity Side.										
	Paid Mr. Charles Seally, as Register, to the 31st March, 5 Months 10 Days, at 6,000 A. Rs per Annum —	2,666	10	8	or	2,880	—	3			
	Paid Mr. John Mills, as Examiner, to the 31st March, 5 Months 10 Days, at 4,000 A. Rs per Annum —	1,766	10	8	or	1,908	—	6			
	In the Court of Admiralty. —										
	Paid Mr. Charles Seally, as Register, to the 31st March, 5 Months 10 Days, at 2,000 A. Rs per Annum —	888	14	3	or	960	—	—			
	Paid Mr. John Mills, as Examiner, to the 31st March, 5 Months 10 Days, at 1,000 A. Rs per Annum —	441	11	8	or	477	—	9	59,987	9	11
May.	Extra Charges — — — — — —					74	8	3			
	Jail stated Allowance on account Repairs — — —					54	—	—			
	Paid on account of the Establishment of Officers of the Supreme Court, whose Employments and Salaries were particularly specied last Month —					7,114	—	3			
	Paid the following Charges, in Addition to those hitherto stated, on account of the Supreme Court.										
	Juggernaut Gose's Bill, as Interpreter to Mr. Justice Hyde, from 22d October to the 30th ultimo, being 6 Months 10 Days, at 1,000 A. Rs per Annum — —	527	11	10	or	569	15	—			

	Paid Juggatram Chattergea's Bill, for the following Servants of the Court, from the 22d of October 1774 to the 30th April 1775, being 6 Months 10 Days.				
1775. May.	Jugutram Chattergea, Banyan, at A. Rs 50 — —	316 10 8			
	A Cash Keeper — at 30 — —	190 — —			
	A Sircar — at 20 — —	126 10 8			
	A Molash, for 6 Months 10 Days, at 30 — — per Mo.	190 — —			
	A Nagree Munsee — at 20 — —	126 10 8			
	A Bramin — at 30 — —	190 — —			
	A Nazier — at 26 10 6	168 13 2			
	50 Peons for April, at 4 each	200 — —			
	20 Chubdars — 6	120 — —			
	2 Durwans, for 6 Months 10 Days, at 6 — —	76 — —			
	A Metranee, Do Do at 4 — —	25 5 4			
		A. Rs 1,730 2 6	or	1,868 9 —	
	Paid the Sheriff's Bills, for the sundry Charges of his Office, and of the Jail.				
	1 Bill, from the 1st to the 20th December 1774	380 — —			
	1 Do, from 20th December to 20th January 1775	1,114 — —			
	1 Do, from 20th January to 20th February	1,122 — —			
	1 Do, from 20th February to 20th March	1,150 — —			
	1 Do, from 20th March to 20 April	1,123 — —			
		A. Rs 4,889 — —	or	5,280 1 9	
	Salaries of the Judges this Month, at the Rate of £. 26,000 per Annum, or C. Rs 260,000, at 2 s. per Current Rupee			21,666 10 8	
					36,627 12 11
June.	Paid on account the Salaries of Officers of the Court this Month, whose Employments therein, and their Allowances, have been above specified, also including Banyans Establishments			7,515 15 6	
	Extra Charges for Candlesticks, Glass Shades, &c. Utensils, Book Binders Work, and Cooley Hire, removing the Bench, &c.			430 3 3	
	Jail stated Allowance on account Repairs			54 — —	
	The Judges Salary for this Month			21,666 10 8	
					29,666 13 5

1775. July.	Paid on account of the Salaries of Officers, whoſe Employments have been ſtated above, for this Month — — — —			8,055 12 3	
	Paid the following additional Eſtabliſhment:				
	Pagoſe Mirza, Interpreter to Mr. Juſtice Chambers, from the 22d October 1774 to the 30th June, at 83. 5. 4. per Month, being 8 Months 10 Days — — — A. Rs	688 14 4	or	744 — —	
	Paid Henry Robinſon his Allowance, in the following Capacities, from the 22d October 1774 to the 30th ult. being 8 Months 10 Days.				
	As Cryer of the Court, at 1,000 A. Rs per Annum —	690 13 3			
	Keeper of D° — 4,00 per D° —	276 10 5			
	Apparitor of the Eccleſiaſtical Court, at 150 per Annum —	103 6 1			
	D° of the Admiralty Court, — at D° —	103 6 1			
	A. Rs	1,174 3 10	or	1,268 5 —	
	Extra Charges paid this Month, for Two Balloting Boxes, a Gallows, and ſundry other Articles, provided for the Uſe of the Court — —			293 3 9	
	Stated Allowance for Jail, and ſundry extra Repairs given thereto, this Month			239 — —	
	Salary of the Judges for this Month — — — —			21,666 10 8	
					32,266 15 8
August.	Paid this Month, on account of Officers belonging to the Court, whoſe Employments have been ſtated above — — —			7,785 15 3	
	Paid the following additional Eſtabliſhments, allowed from the 22d October 1774 to the 30th July 1775.				
	A Tipſtaff to Mr. Juſtice Chambers, at 1,000 A. Rs per Annum, being 9 Months 10 Days — — —	772 4 7	or	834 1 —	
	Pagoſe Mirza, as Interpreter to the Examiner, at 30 A. Rs per Month, 9 Months 10 Days — —	279 — —	or	301 5 1	
	Gollah Mahamed, Perſian Moonſhee, at 30 A. Rs per Month — — — —	280 — —	or	302 6 5	

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Extra Charges on account of the Equipage of the Judges.

1775. August.	7 Silver Sticks, Chubdar, for Chief Justice	442	2	3							
	4 Dº, for Mr. Justice Chambers	315	8	3							
	4 Dº, for Mr. Le Maistre	360	2	—							
	4 Dº, for Mr. Justice Hyde	345	7	3							
	81 Pieces of Cloth for cloathing the Judges Servants, 140 Turbans and Sashes for Dº, and Taylor's Work making up the same, and Kittysauls	904	—	—							
		A. Rˢ 2,367	3	9	or	2,556	9	6			
	Sundry Petty Charges incurred about the Court Room, Benches, and Bar					63	13	9			
	Stated Allowance included, and sundry further Repairs given the Jail this Month					558	3	—			
	Salary of the Judges this Month					21,666	10	8			
									34,069	—	8
September.	Paid Account of the Officers whose Employments and Salaries have been already stated					7,548	4	—			
	Paid the Sheriff's Bills, for Charges of his Office and the Jail, from the 20th April to the 20th August, 4 Months					4,894	—	3			
	Extra Charges, 2 new Presses for the Record Office					129	14	9			
	Jail stated Allowance					54	—	—			
	Salary of the Judges this Month					21,666	10	8			
									34,292	13	8
October.	Paid on account the Salaries of Officers of the Court which have been before stated					7,638	6	6			
	Extra Charges					3	9	6			
	Jail stated Allowance on account Repairs					54	—	—			
	Salary of the Judges this Month					21,666	10	8			
									29,362	10	8
November.	Paid on account of the Salaries of Officers of the Court, before stated, including some extra Servants Wages under the Banyan					7,561	—	9			
	Extra Charges this Month					27	8	9			
	Jail stated Allowance on account Repairs					54	—	—			
	Salaries of the Judges this Month					21,666	10	8			
									29,309	4	2
December.	Paid the Judges Salary this Month					21,666	10	8			
	Paid on account of the before stated Officers of the Court, Amount drawn by them this Month					5,181	6	6			
	Sheriff's Bills for 2 Months, from the 20th August to the 20th October					2,456	7	6			

1775. December.	Extra Charges	31 11 6		
	Jail ſtated Allowance on account Repairs	54 — —	29,390 4 2	3,86,383 4 —
1776. January.	Paid Salary of the Judges this Month	21,666 10 8		
	Paid on account of the before ſtated Officers of the Court this Month, with Arrears of Salary to ſeveral of them, who had omitted to draw the ſame when due	11,031 7 3		
	Extra Charges	28 — 6		
	Jail ſtated Allowance for Repairs	54 — —	32,780 2 5	
February.	Paid Salary of the Judges this Month	21,666 10 8		
	Paid on account the before ſtated Officers of the Court this Month	10,143 8 9		
	Sheriff's Bills, from the 20th December to the 20th February	2,438 10 3		
	Jail ſtated Allowance on account Repairs	54 — —		
	Extra Charges	3 2 —	34,305 15 8	
March.	Paid Salary of the Judges this Month	21,666 10 8		
	Paid on account of the before ſtated Officers of the Court this Month	6,441 6 6		
	Extra Charges	13 2 3		
	Jail ſtated Allowance for Repairs	54 — —	28,175 3 5	
April.	Salary of the Judges this Month	21,666 10 8		
	Paid on account the before ſtated Officers of the Court this Month	8,988 6 6		
	Paid the Sheriff's Bill from the 20th February to the 20th March	1,281 15 3		
	Jail ſtated Allowance on account Repairs	54 — —		
	Extra Charges this Month	13 2 9		
	To Petty Stores for Planks, Timbers, Nails, Rope, Hinges, Locks, Stationary, &c. &c. expended on account of the Supreme Court, ſince the 30th April, 1775, as per Particulars contained thereof in General Journal for the Year 1775-6, Pages 173-4	2,301 4 3	34,305 7 5	
May.	Salary of the Judges	21,666 10 8		
	Paid on account the before ſtated Officers of the Court	7,278 6 9		
	Sheriff's Bills from the 20th March to the 20th May	2,575 13 —		
	Extra Charges repairing the Record Office	131 6 6		
	Jail ſtated Allowance for Repairs	54 — —	31,706 4 11	

1776.											
June.	Salary of the Judges this Month					21,666	10	8			
	Paid on account the Officers of the Court before stated					9,708	7	6			
	Sheriff's Bill for Charges his Office and Jail, from the 20th May to the 20th June 1776					1,316	8	3			
	Paid Mr. Alexr Mackrabie, Sheriff at the Time, for Charges of his Office, from the 20th October 1774, to the 20th November,	A. Rs 1,184	5	4							
	Do from 20th November to 20th December 74	1,616	2	—							
	Repairs to the Haringberry, pd Do	80	2	—							
		A. Rs 2,880	9	4	or	3,111	—	6			
	Extra Charges, Carpenters Work, Cooley Hire, &c.					49	5	3			
	Jail stated Allowance for Repairs					54	—	—			
									35,906	—	2
July.	Paid Salary of the Judges this Month					21,666	10	8			
	Paid on account of the Officers of the Court before stated					7,274	13	9			
	Paid Mr. William Chambers's Bill for Salary, as Interpreter and Persian Translator, from the 15th March 1775 to the 30th June 1776, being 15 Months 10 Days, at A. Rs 8,000 per Annum	A. Rs 10,333	5	4	or	11,160	—	—			
	Jail stated Allowance on account Repairs					54	—	—			
									40,155	8	5
August.	Paid Salary of the Judges this Month					21,666	10	8			
	Paid on account the Salaries of Officers of the Court before stated					9,681	7	6			
	Paid Sheriff's Bills from 20th June to 20th August, is 2 Months					2,522	14	3			
	Jail stated Allowance for Repairs					54	—	—			
									33,925	—	5
September.	Salary of the Judges this Month					21,666	10	8			
	Paid on account of the Salary of Officers of the Court before stated					7,368	7	6			
	Paid Sheriff's Bill from the 20th of August to the 20th of September					1,286	4	6			
	Jail stated Allowance for Repairs					54	—	—			
									30,375	6	8
October.	Salary of the Judges					21,666	10	8			
	Paid on account of Officers of the Court before stated					9,384	7	6			
	Paid Mr. Henry Cottrel his Bill for Court House Rent, as Churchwarden, for 2 Years, to the 31st December 1775 at 4,160 per Annum					8,320	—	—			
	Jail stated Allowance on account of Repairs					54	—	—			
									39,425	2	2

1776. November.	Salary of the Judges this Month	21,666	10	8							
	Paid on account the before ſtated Officers of the Court this Month	7,368	7	6							
	Paid Sheriff's Bill from 20th September to the 20th October	1,293	2	9							
	Stated Allowance for Jail	54	—	—							
					30,382	4	11				
December.	Salary of the Judges this Month	21,666	10	8							
	Paid on account of the before ſtated Officers of the Court, and ſundry Arrears of their Salary	10,825	8	9							
	Paid Sheriff's Bills for 2 Months, from the 20th October to the 20th December	3,305	1	6							
	Jail ſtated Allowance for Repairs	54	—	—							
					35,851	4	11	4,07,293	13	6	
1777. January.	Salary of the Judges this Month	21,666	10	8							
	Paid on account of the before ſtated Officers of the Court	9,362	13	6							
	Sheriff's Bill from the 5th to the 20th January (Mr. Wodſwarth)	658	10	3							
	Jail ſtated Allowance paid to the Sheriff for Repairs	54	—	—							
					31,742	2	5				
February.	Salary of the Judges this Month	21,666	10	8							
	Paid on account of the before ſtated Officers of the Court this Month	8,052	6	6							
	Paid the Churchwarden's Bill for Houſe Rent, from the 31ſt December 1775 to the 1ſt January 1777, is One Year	4,160	—	—							
	Sheriff Montaigut's Bill, from 20th December to the 5th of January 1777	655	—	3							
	D° Wodſworth's Bill, from 20th January to the 20th February 1777	1,331	1	6							
	Extract Charges for Block Wook Chairs	90	11	9							
	Jail ſtated Allowance for Repairs	54	—	—							
					36,009	14	5				
March.	Salary of the Judges this Month	21,666	10	8							
	Paid on account of the ſtated Officers of the Court this Month	8,539	4	6							
	Extra Charges	—	7	6							
	Jail ſtated Allowance for Repairs	54	—	—							
					30,260	6	8				
April.	Salary of the Judges	21,666	10	8							
	Paid on account, the before ſtated Officers of the Court this Month, with ſundry Arrears of Salary	10,572	7	—							
	Sheriff's Bills from 20th February to the 20th April	2,691	7	9							
	Jail Eſtabliſhment for Repairs	54	—	—							

New Eſtabliſhments.

1777. April.	Paid Mr. William Chambers, as Examiner and Reporter of Petitions, from the 3d February to the 31ſt March, at 400 Arcot Rupees, or C. Rs 432	820 12 9	
	C. F. Brix, as Counſel for Paupers, from the 3d February to the 31ſt of March, at 600 A. Rs per Month — A. Rs 1,160	1,252 12 6	
	Mr. William Johnſon, as Attorney for Dº, from 3d February to 31ſt Dº	820 12 9	
	Wroughton's Bill, as Clerk appointed by the Court to the Grand Jury, for February and March	75 9 9	
	To Petty Stores for various Articles ſupplied for the Uſe of the Court, from the 30th April 1776, as per Particulars contained in General Journal for the Year 1776-7, Page 191	316 8 3	
			38,271 1 5
May.	Salary of the Judges this Month	21,666 10 8	
	Paid on account of Officers of the Court before ſtated	10,964 13 6	
	Sheriff's Bill from 20th April to the 20th May	1,436 8 9	
	Extra Charges for Chairs, &c	95 4 —	
	Jail ſtated Allowance for Repairs	54 — —	

New Eſtabliſhments.

	2 Pundits Wages, at 200 Rupees each per Month, from the 3d February, to the 1ſt May, 2 Months 27 Days	1,252 12 9	
	2 Malovies Salaries for the ſame Time, and at the ſame Rate	1,252 12 9	
	Pagoſe Mirza, Interpreter to the Grand Jury, for Ditto	107 14 9	
			36,830 13 2
June.	Salary of the Judges this Month	21,666 10 8	
	Sheriff's Bill from the 20th May to the 20th June	1,551 11 —	
	Extra Charges	18 4 6	
	Jail ſtated Allowance for Repairs	54 — —	
	Paid on account, the Salaries of the before-ſtated Officers of the Court, this Month	8,735 4 3	
			32,025 14 5
July.	Salary of the Judges this Month	21,666 10 8	
	Paid on account of Officers of the Court before ſtated, and ſundry Arrears of Salary due to them for former Months	13,222 — 9	
	Sheriff's Bill from the 20th June to the 20th July	1,568 6 —	
	Extra Charges	20 6 3	

1777. July.	Jail ſtated Allowance for Repairs — — —		54 — —	
	Making additional Rooms to the Court Houſe, with ſundry Repairs, agreeably to Captain Gardner's Eſtimate — —	A. Rs 14,825 6 4	or 16,011 7 7	
				52,542 15 3
Auguſt.	Salary of the Judges this Month — — — —		21,666 10 8	
	Paid on account of Officers of the Court before ſtated — —		7,548 6 6	
	Extra Charges — — — —		6 10 —	
	Jail ſtated Allowance for Repairs — — —		54 — —	
	New Eſtabliſhments.			
	Francis Macrae, Clerk to the acting Juſtice for July —	250 — —		
	Joſeph Satchell, as Do for June and July — —	400 — —		
	Allowance for Stationary in the acting Juſtice's Office, for June and July — — — — —	60 — —		
	Lewis Cardoze, as 3d Clerk, for July — —	100 — —		
	Ramlochun Goſe, Interpreter to the acting Juſtice for June and July — — — —	200 — —		
	One Head Conſtable for July — — —	70 — —		
	Six inferior Do, for July, 60 each — — —	360 — —		
		A. Rs 1,440 — —	or 1,555 3 3	
				30,830 14 5
September.	Salary of the Judges this Month — — — —		21,666 10 8	
	Paid on account of Officers of the Court before ſtated — —		12,361 10 3	
	Sheriff's Bill, from the 20th July to the 20th September —		3,248 15 3	
	Jail for Amo. Expences paid to the Under Sheriff, for Repairs given to the Jail, when damaged by the Rains — — — —		1,749 3 —	
	Acting Juſtice Houſe Rent, for his Office, in Auguſt — —		388 12 6	
				39,415 3 8
October.	Salary of the Judges this Month — — —		21,666 10 8	
	Paid on account the Salary of Officers of the Court before ſtated —		11,891 4 —	
	Sheriff's Bill from 20th September to 20th October — —		1,711 2 9	
	Jail ſtated Allowance for Repairs — — —		54 — —	
	Houſe Rent acting Juſtice, for September and October, at A. Rs 360 per Month — — — — —	720 — —	777 9 6	
	Extra Charges — — — — — —		4 7 —	
				36,105 1 11

1777. November.	Salary of the Judges this Month	21,666	10	8				
	Paid on account of Officers of the Court before ſtated, with Arrears to ſome of them	14,611	10	6				
	Extra Charges	224	11	3				
	Jail ſtated Allowance for Repairs	54	—	—				
					36,557	—	5	
December.	Salary of the Judges this Month	16,666	10	8				
	Paid on account of Officers of the Court before ſtated	11,218	—	9				
	Sheriff's Bill from 20th October to the 20th December, 2 Months	3,411	10	3				
	Extra Charges	48	8	3				
	Acting Juſtice Houſe Rent	388	12	9				
	Jail ſtated Allowance for Repairs	54	—	—				
					31,787	10	8	
								4,32,379 2 10
1778. January.	Salary of the Judges this Month	16,666	10	8				
	Paid on account of Officers of the Court before ſtated	10,945	11	3				
	Extra Charges	35	13	9				
	Acting Juſtice Houſe Rent	388	12	9				
	Jail ſtated Allowance for Repairs	54	—	—				
					28,091	—	5	
February.	Salary of the Judges this Month	16,666	10	8				
	Paid on account of Officers of the Court before ſtated, with ſundry Arrears of Salary to ſome of them	14,703	7	3				
	Sheriff's Bills for 2 Months, from 20th December to 20th February	3,075	13	6				
	Extra Charges	12	3	9				
	Jail ſtated Allowance for Repairs	54	—	—				
	Houſe Rent, paid the Churchwarden's Bill for Rent of the Court Houſe, for the Year 77	4,160	—	—				
	Paid Dº, at an encreaſed Rent, demanded by them for laſt Month, viz. Sª Rˢ 800 — — or	928	—	—				
					39,600	3	2	
March.	Salary of the Judges this Month	16,666	10	8				
	Paid on account of the ſtated Officers of the Court this Month, with ſundry Arrears of former Months	15,335	13	9				
	Sheriff's Bill from 20th February to the 20th March	1,577	14	—				
	Acting Juſtice Houſe Rent for January and February	777	9	6				
	Jail ſtated Allowance for Repairs	54	—	—				
					34,411	15	11	

GENERAL APPENDIX, N° 40.

1778. April.	Salary of the Judges this Month	16,666	10	8	
	Arrears of Salary paid to the Chief Judge and Puiſne Judges, agreeably to Computation of the Quantity of Coin of this Country, contained in the Salary granted to them by Act of Parliament, viz.				
	To the Chief Juſtice	42,560	—	—	
Auguſt.	Sir Robert Chambers	31,920	—	—	
	The Executors of Mr. Le Maiſtre, from April 1774, to the 31ſt October 1777, 3 Years and 7 Months at C. R^s 7,980	28,595	—	—	
	Mr. Juſtice Hyde	31,920	—	—	
	Paid on account of the before ſtated Officers of the Court this Month	14,255	4	6	
	Sheriff's Bill from 20th March to the 20th April	1,621	1	3	
	Extra Charges on account of Gallows, Pillory, &c.	192	9	—	
	Houſe Rent Acting Juſtice	388	12	9	
	Jail ſtated Allowance for Repairs	54	—	—	
	To Petty Stores for Sundries, expended on Account of the Court ſince the 30th April 1777, as per General Journal, Page 416	167	5	—	
					1,68,340 11 2
May.	Paid on account of the before ſtated Officers of the Court this Month	13,025	9	9	
	Extra Charges	43	8	6	
	Houſe Rent to Acting Juſtice	388	12	9	
	Jail ſtated Allowance for Repairs	54	—	—	
	Advanced for building a new Jail this Month	21,750	—	—	
					35,261 15 —
June.	Paid on account the before ſtated Officers of the Court this Month	10,073	14	—	
	Sheriff's Bill from the 20th April to the 20th May	1,587	9	6	
	Houſe Rent Sitting Juſtice	388	12	9	
	Jail ſtated Allowance for Repairs	54	—	—	
	Extra Charges as follow:				
	Paid Mr. John Richardſon, Sheriff, his Bill, the Amount of an Eſtimate for repairing the Town Jail, under Date 11th June 1778, by Order of the Honourable the Board of Inſpection Arcot Rupees 6,000 or	6,480	—	—	
	Additions and Repairs to the Court Houſe, with Offices, &c. by Order of the Honourable the Board of Inſpection A. R^s 27,872 or	30,101	12	3	

Charges as follow:

	Furniſhing the Temporary Court Houſe, and fitting up the New Bench, at the Requiſition of the Court, and by the Directions of the Judges,						
1778. June.	4 Wooden Shade Stands, at 10 A. Rˢ each	40	—	—	43	3	3
	6 Pair Shade Lanterns, at 30 per Pair	180	—	—	194	6	3
	12 Black Wood Ink Stands, at 25 each	300	—	—	324	—	—
	24 Black Wood Chairs, at 25 per Pair	300	—	—	324	—	—
	2 Settees, 150 each	300	—	—	324	—	—
	1 large ſquare Table, covered with Broad Cloth	300	—	—	324	—	—
	1 Deſk	80	—	—	86	6	6
	3 Deſks, at 60 each	180	—	—	194	6	—
	6 Deſks, 120 each	720	—	—	777	9	6
	4 Deſks, 20 each	80	—	—	86	6	6
	3 large Benches, covered with Broad Cloth, at 150 each	450	—	—	486	—	—
1779. December.	Nicholas Jebb, Interpreter of the Court for September	266	10	8			
	Dº, for October	266	10	8			
	Dº, for November	266	10	8			
	Dº, for December	266	10	8			
	4 Months, A. Rˢ	1,066	10	8	1,152	—	—
	Alexander Fraſer, Sealer of the Court, per September	166	10	8			
	Examiner in Equity, Dº	333	5	4			
	Dº, Eccleſiaſtical Court, Dº	83	5	4			
	Dº, Court of Admiralty, Dº	83	5	4			
	for September	666	10	8			
	Dº, for October	666	10	8			
	Dº, for November	666	19	8			
	Dº, for December	666	10	8			
	4 Months A Rˢ	2,666	10	8	2,880	—	—
	Henry Robinſon, Cryer of the Court, for October	83	5	4			
	Keeper of Dº, for Dº	33	5	4			
	Apparitor in 2 Courts	25	—	—			
		141	10	8			

1779. December.	D°, for November	141 10 8		
	D°, for December	141 10 8		
	3 Months A. R•	425 — —		
	L. Cardoze, 3d Clerk to the Acting Justice for November	100 — —		
	D°, for December	100 — —		
	2 Months, A. R•	200 — —	or	216 — —
	Pagose Mirza, Interpreter to Sir Robert Chambers, for October	83 5 4		
	D°, to the Grand Jury, D°	33 5 4		
	D°, to the Examiner, D°	30 — —		
		146 10 8		
	D°, for October	146 10 8		
	D°, for November	146 10 8		
	D°, for December	146 10 8		
	4 Months, A. R•	586 10 8	or	633 9 7
	J. Satchell, 2d Clerk to the Sitting Justice, for November	200 — —		
	D°, for December	200 — —		
	2 Months, A. R•	400 — —		
	Ramlochun Gose, Interpreter to Mr. Hyde, for November	83 5 4		
	D°, Acting Justice, D°	100 — —		
		183 5 4		
	D°, for December	183 5 4		
	2 Months, A. R•	366 10 8	or	396 — —
	Rampersaud Chattergea, Banyan's Establishment, for November	572 10 8		
	D°, for December	572 10 8		
	2 Months, A. R•	1,145 5 4		1,236 15 —

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1779. December.	Deanut Ullah, Moulavie, for September	200	—	—				
	Dº, for October	200	—	—				
	Dº, for November	200	—	—				
	Dº, for December	200	—	—				
	4 Months, A. Rˢ	800	—	—	or	864	—	—
	Two Pundits, for November	400	—	—				
	for December	400	—	—				
	2 Months, A. Rˢ	800	—	—	or	864	—	—
	Jugul Kissore, Moonsie to the Chief Justice, for September	83	5	4				
	Dº, for October	83	5	4				
	Dº, for November	83	5	4				
	Dº, for December	83	5	4				
	4 Months, A. Rˢ	333	5	4	or	360	—	—
	John Nicoll, Tipstaff to the late Mr. Justice Le Maistre, for October	83	5	4				
	Dº, for November	83	5	4				
	Dº, for December	83	5	4				
	3 Months, A. Rˢ	250	—	—		270	—	—
	T. Finch, Tipstaff to the Chief Justice, for October	83	5	4				
	Dº, for November	83	5	4				
	Dº, for December	83	5	4				
	3 Months, A. Rˢ	250	—	—		270	—	—
	J. Russell, Tipstaff to Mr. Justice Hyde, for October	83	5	4				
	Dº, for November	83	5	4				
	Dº, for December	83	5	4				
	3 Months, A. Rˢ	250	—	—		270	—	—

1779. December.	F. Lenze, Tipstaff to Sir Robert Chambers, for September	83 5 4				
	D°, for October	83 5 4				
	D°, for November	83 5 4				
	D°, for December	83 5 4				
	4 Months, A. R.	333 5 4		360 — —		
	Constables—One for October, November, and December, at A. R. 70 per Month	210 — —				
	D°—Five for November and December, at A. R. 60 each per Month	600 — —				
	A. R.	810 — —	or	874 12 9		
	Sheriff's Bill, for November	1,353 — —				
	Ditto, his Bill for building a Jail at Kiderpore	556 — 6				
	A. R.	1,909 — 6	or	2,061 12 —		
	House Rent, acting Justice, for November	360 — —				
	D°, for December	360 — —				
	2 Months, A. R.	720 — —	or	777 9 6		
	Extra Charges repairing the Pillory			23 1 —		
					92,855 15 —	
					5,34,859 2 —	
						25,76,891 2 3

N. B. Inclusive of the above stated Sums, under Date of December, are the following Salaries, which were due at the Conclusion of that Month, but not then drawn, the same having been inserted, because, that though not actually paid, they form a Part of the Charges of the Court till that Period:

One Quarter's Salary to the Judges, due the 31st December	56,650 — —
Mr. William Chambers, Persian Translator, Interpreter, &c. for December	1,900 — —
Richard Litchfield, Prothonotary, for D°	500 — —
James Forbes, Clerk to Chief Justice, D°	250 — —
Mr. Smoult, D° to Sir Robt Chambers, D°	250 — —
Mr. Peat, D° to Sitting Justice, D°	280 — —
Geo. Wroughton, D° to Mr. Hyde, D°	250 — —

1779. December.	William Johnſon, Clerk of the Crown, and Pauper Attorney, for December —		900 — —	
	Mr. Brix, Counſel for Paupers, for December — — —		183 5 4	
	A. Fraſer, Sealer, Dº — — — —		666 10 8	
	Mr. Petruſe, Aſſiſtant Interpreter, Dº — — —		183 5 4	
	Henry Robinſon, Cryer, &c. Dº — — — —		141 10 8	
	Pagoſe Mirza, Interpreter to Sir Robert Chambers, for December —		141 10 8	
	Ramlochun Goſe, Interpreter to Juſtice Hyde, &c. for December —		366 10 8	
	Deanut Ullah, Moulavie, Dº — — — —		200 — —	
	Jugul Kiſhore, Moonſie to Chief Juſtice, for December — —		83 5 4	
	Two Tipſtaffs, Dº — — — —		166 10 8	
	1 Dº, for November and December — — —		83 5 4	
	Nicholas Jebb, Interpreter, for Dº Dº — — —		533 5 4	
	J. Satchell, 2d Clerk to acting Juſtice, for November and December —		400 — —	
	2 Pundits, for Dº and Dº — — — —		800 — —	
				64,930 — —

Charges incurred on account of the Proſecution and Defence of Suits inſtituted by or againſt the Company.

General Department

1775. December.	Paid Mr. Robert Jarrett, Company's Attorney at Law, his Salary, from the 31ſt March to the 31ſt December, at 300 Sicca Rupees per Month — — Sª Rˢ		2,700 — —	3,132 — —
1776. February.	Paid Dº his Wages — — —	300 — —		
	Dº, an Advance on account Law Suits — —	5,057 10 —		
	Sª Rˢ	5,357 10 —	or 6,214 15 —	
	Paid Attorney's Salary, from 31ſt January to the 31ſt December 1776, 11 Months, at Sicca Rupees 300 per Month, is — Sª Rˢ	3,300 — —	3,828 — —	
				10,042 15 —
1777. Auguſt.	Paid on account of Attorney's Monthly Salary each Month, from the 31ſt December laſt to the 31ſt July, 7 Months, at 300 — — — Sª Rˢ	2,100 — —	or 2,436 — —	
September.	Paid Mr. Robert Jarrett, Attorney, his Bill for Fees and Diſburſements, from the 1ſt of April 1776 to the 30th June 1777 — — — Sª Rˢ	14,710 6 8	17,064 1 4	
				19,500 1 4

1778. March.	Paid Mr. Robert Jarrett, Attorney, the Balance of his Account for Fees and Disbursements, from the 30th June 1777 to the 28th February 1778 — — Sa Rs	17,983	10	5	or	20,861	—	3			
April.	Paid said Mr. Jarrett, late Attorney to the Honourable Company, his Bills for the Month of March — Sicca Rupees	1,965	2	—		2,279	8	6			
May.	Paid Sir John Day, his Bill, as Advocate General to the Honourable Company, from the 8th February to the 30th April — — — — —	6,785	11	9							
June.	Advanced to Mr. North Naylor, Attorney to the Honourable Company, on account of the Disbursements of his Office — — — — S. Rs	5,000	—	—		5,800	—	—			
	Paid Mr. North Naylor, in Discharge of his Bills for Law Business, from the 13th March to the 1st of August 1778 — — — — Sa. Rs	22,771	15	10	or	26,415	8	3			
December.	Paid Mr. North Naylor, the Balance due on his Account Current, for Conveyancing Business, from the 13th of March to the 1st of August 1778 — — Sa Rs	9,382	15	—		10,884	3	—			
	Paid Mr. Hickey, the Attorney employed in the Cause, Gocul Gosaul against Lt. Colonel Watson, for the Fees of the Counsel retained in the Cause — — Sicca Rupees	960	—	—	or	1,113	9	6			
									74,139	9	3
1779. January.	Paid to Messrs. Litchfield and Johnson, Executors of the late Mr. Pritchard, being the Amount of the Judgment and Costs obtained by them upon the Action which they brought against the Company in the Supreme Court, for Fees paid to Counsel, and other Charges incurred by Mr. Pritchard, in preparing for a Suit against the Salt Contractor of the 24 Pergunnahs — — Sicca Rupees	2,964	2	—	or	3,438	6	3			
February.	Advanced to Mr. Hickey, the Attorney employed in the Cause, Gocul Gosaul against Lt. Colonel Watson, for Payment of the Fees of the Counsel employed in the Cause, and the Officers of the Court — — Sa Rs	2,400	—	—		2,784	—	—			
March.	Advanced to Mr. North Naylor, on account the Disbursements of his Office, Sicca Rupees 10,000 — — C. Rs	11,600	—	—							
	Advanced to Mr. Hickey, Attorney in the Cause brought in Equity, the Company, in the Name of Colonel Watson, against Gocul Gosaul, to enable him to prosecute the same, Sicca Rupees 1600 — — C. Rs	1,856	—	—							

1779. March.	Paid Sir John Day, as Advocate General, for One Year, from his Arrival at Madras, the 8th of February 1778, to the 8th February 1779, at £. 3,000 Sterling per Annum, at the Rate of Exchange received by the Chief Justice and Judges	33,990 — —		
	Deduct, paid Mr. Francis on this Account, as per his Receipt	6,785 11 9		
		27,204 4 3		
	Paid Do, from the 8th to the 28th February 1779	1,888 5 4		
			29,092 9 7	
				42,548 9 7
April.	Paid to Mr. Hickey, Attorney at Law, Balance due to him on his Account Current, dated the 16th March 1779, on account of the Two Suits above-mentioned, Sicca Rupees 3,527. 6. — C. R.		4,091 12 6	
	Sir John Day's Salary for last Month		2,832 — 8	
				6,923 13. 2
May.	Paid Sir John Day's Salary for April			2,832 8 —
June.	Paid to Mr. North Naylor the Balance of his Account Current, for Law and Conveyancing Business, from the 1st August 78 to the 7th March 1779 — Sicca Rupees 37,898 9 — or		43,962 5 3	
	Paid Sir John Day's Salary, for the Month of May		2,832 — 8	
				46,794 5 11
July.	Paid to Mr. North Naylor, on account the Disbursements of his Office — S. Rs		10,000 — —	or 11,600 — —
September.	Paid Sir John Day his Salary this Month, for June, July, and August		8,497 8 —	
October.	Paid Sir John Day's Bill for Arrears of Salary, from the 8th February to the 8th October 1779, being additional for the Charges of his Office, at the Rate of 2,500 Current Rupees per Month		2,000 — —	
	His Salary, as Advocate General, for September		2,832 8 —	
				22,832 8 —
November.	Advanced Mr. North Naylor, on account the Disbursements of his Office — Ss Rs		2,000 — —	

1779. November.	Paid him the Balance of his Account, for Law and Conveyancing Business, dated the 1st September 1779 —	41,961 6 —			
	S^t R^s	61,961 6 —	or 71,875 3 —		
December.	Paid Sir John Day, for Salary and Office Charges, from the 8th to the 31st October —	4,665 13 4			
	Ditto for November —	5,332 8 —			
	Amount his Salary, for December, but not yet drawn —	5,332 8 —			
			15,330 13 4	2,35,457 11 3	
					3,42,272 4 10
	Revenue Department.				
December. 1183.	**Calcutta Committee.**				
	Paid Mr. Rob^t Jarret, Company's Attorney, account Charges incurred in the Suit with Comaul Uldeen Ally Cawn — — — Sicca R^s		9,000 — —		
	Paid the following Gentlemen their Bills for travelling Charges, for their respective Stations, to the Presidency and back, in consequence of Subpœnas from the Supreme Court of Judicature, requiring them to give Evidence in the Cause of Comaul Uldeen against Three of the Members of the Committee:				
	Mr. Lane, Chief of Cossimbazar — —	925 7 10			
	Mr. Higginson, Chief of Burdwan — — —	600 — —			
	Mr. Harwood, Chief of Dinagepore — — —	1,500 — —			
	Mr. Maxwell, from Moorshedabad — —	600 — —			
			3,625 7 10		
1184.	Paid Mr. Jarrett the Costs, &c. given Ram Duloll Muckergea, against Major Morgan, regarding Bricks —	753 9 3			
	Paid Mr. Hogarth's Bill for travelling Charges, subpœned from Dacca, as an Evidence in the Cause of Comaul Uldeen — —	1,200 — —			
	Paid Messrs. Tolfrey and Naylor, the Costs in a Suit instituted against Mr. Jarrett — — — —	197 8 —			

	Paid Mr. Jarrett the Balance of his Bills, from the 1st of April 1777 to the 1st July 1777 — —	2,820 12 4		
	Advanced Mr. Jarrett, for Counsel's Fees, and other Charges, in the several Suits at this Time depending against the Committee, as per Consn 4th July 1777 — —	5,000 — —		
	Paid Tolfrey and Naylor, the Costs in a Suit instituted by Kissendeb Roy against the Committee — —	2,451 2 —		
	Advanced Mr. Jarrett, for Fees of Counsel, and other Charges, in the Suits subsisting against the Committee, as per Consultn 28th February 1778 — —	5,000 — —		
			17,422 14 7	
1185.	Advanced Mr. North Naylor, Company's Attorney at Law, Charges in the several Suits depending against the Committee, as per Consn 12th February 1779 —	— —	5,000 — —	
1186.	Paid Do Balance of his Bill, for Charges in the several Suits, as per Consultation of the 28th of April 1779 — —	4,388 15 —		
	Paid William Johnson, Attorney, his Bill, for taking out a Habeas Corpus, at the Instance of Durgachurn Chuckerbuttee, as per Consn 28th April 1779 — —	254 14 —		
	Paid Mr. North Naylor, the Costs in the Suits instituted by Sunker against Neemoy Metre Aumeen, of this Division, as per Consn 20th September 1779 — —	528 — —		
	Paid Do the Balance of his Bills, from the 1st March to the 30th September last, for Counsel's Fees, &c. Charges —	4,558 3 —		
			9,730 — —	
				44,778 5 17
	Moorshedabad.			
1185.	In the Cause Gourychurn Dutt, Boat-Hire and travelling Charges for Bendrabun, Moonsie, &c. in the Month of Maug — — — — — — —	50 — —		
	Do Puddow Lochun Shiristadar — — — —	200 — —		
			250 — —	
1186.	Travelling Charges to Bindrabun, Moonsie, in the Month of Assar — —	80 — —		
	Do to Moonsie Mohun Lall, in the Cause of Tulsee Ram dur and Bulram — — — — —	30 — —		
			110 — —	
				360 — —

	Burdwan.			
1778. January.	Paid Mr. Higginſon's Bill, for travelling Charges to and from Calcutta, in Conſequence of Mr. Judge Le Maiſtre's Summons to attend him, to anſwer a Complaint of the Ranny of Burdwan, in the Months of July and Auguſt 1777 — — — — —		2,000 — —	
	Lt. Richard Long's Bill, for travelling to and from Calcutta, on the above Buſineſs — — — — — — —		300 — —	
	Mr. Higginſon's Bill, for travelling Charges to and from Calcutta, in November and December 1777, to attend the Aſſizes, to anſwer the Ranny of Burdwan's Complaint — — — — —		2,000 — —	
	Lt. Richard Long's Bill, for travelling Charges on the ſame Account —		300 — —	
	Dº Expences incurred by him in carrying down Evidences to Calcutta —		237 — —	
	Mr. Newman, Counſel, his retaining Fee, to defend in the ſaid Proſecution —		320 — —	
	Mr. Johnſon, Clerk of the Crown's Bill, on account of the ſaid Proſecution —		45 8 —	
September.	Paid travelling Charges to the Ryots of the Iron Mhalls in Beer Boom, ordered down to Calcutta by the Governor General and Council — —		96 — —	
				5,298 8 —
	Dacca.			
1777.	Pulwar Hire, &c. ſending Nazeer Noordie to Calcutta, with Seroop Chund — — — —	300 — —		
	Paid Mirza Caloo, and other Witneſſes, ſent down to Calcutta, upon the Diſpute between Mr. Peat, Attorney at Law, as Sheriff's Deputy, and the Phouſdar Syeed Allie Cawn —	710 — —		
			1,010 — —	
	Paid Juggernaut, Peſchar of the Phouſdar, his Way Charges to Calcutta, upon a Warrant from the Court — —	200 — —		
	Paid Syeed Allie Cawn, Phouſdar, Charges incurred in a Law Suit in the Supreme Court — —	5,273 — —		
			5,473 — —	
				6,483 — —
	Patna.			
1778.	Paid Mr. Young his Way Charges to Calcutta, and back again, he being ſummoned as an Evidence in the Cauſe of Naderah Begum againſt the Kazy and Muftiės — —			1,800 — —

Year	Particulars				
	Khalsah.				
1778.	Paid the Honourable Company's Counsellor at Law, as per Order of Council, in their Revt Dept, 17th March 1775 — — —	3,200 — —			
	Paid Mr. Robert Jarrett, Attorney to the Honourable Company, to discharge the Bills of their Counsellor at Law, as per Order of Council, dated the 14th April, 75 — — — — —	6,360 — —			
	Mr. Robert Jarrett, paid him to discharge the Bill of Mr. Brix, Counsellor at Law, as per Order of Council, dated the 3d May 1775 — —	1,104 — —			
	Paid the Secretary to the Revenue Department, for Payment to the Counsellors at Law, agreeably to an Order from the Secretary, dated 22d October 1776	3,200 — —			
	The Allowance to the Commissioners of the Law Suits, from the 31st of December 1777 to the 1st of January 1779, being 2 Years, at 2,000 per Month — — — — —	48,000 — —			
			61,864 — —		
	Sa Rs		120,583 13 17		
	Batta 16 per Cent		19,293 6 14		
				139,877 4 6	
	Commercial Department.				
	For Amount of Law Charges incurred in this Department, from the first Establishment of the Supreme Court, agreeably to their Accountant's Extracts thereof, dated the 14th December ultimo — — — — — —			7,067 4 —	
					4,89,216 13 4
	Costs and Damages sustained by the Honourable Company, from Decrees given by the Supreme Court of Judicature.				
	Revenue Department.				
	Calcutta Committee.				
	Paid Mr. William Johnson, Attorney to Durgachurn Chuckerbutty, Maulzameen to the late Farmer of Ponchawn Gong, for the Amount of Judgment and Costs in the Suit brought by him against the Committee, as per Consultation, 19th March 1779, being Rs 13,565; the Particulars of which are as follow:				
1185.	Paid back the Amount which had formerly been received from him, on account the Balance due from that Mhaul, for the Bengal Year 1183, and which has never since been recovered — — — — — —	10,430 11 17			
	Costs of Suits — — — — — —	3,114 4 3			
			13,565 — —		

	Paid to Santoze Metre, viz.				
1185.	The Amount of the Decree of the Supreme Court in his Favour — — —	32,876 14 —			
	Deduct the Balance of his Account Current, being in Part of the Sum decreed him — — — — — —	17,478 13 —			
			15,398 1 —		
	Khalsah.			28,963 1 —	
	Advanced the Honourable Company's Attorney, for the Purpose of discharging the Amount of a Judgment obtained against the Company, in the Supreme Court of Judicature, at the Suit of Mr. William Mc Thackery, for a Balance due on account of Elephants, and endorsed to Mr. William Dawson, 10th December 1776 — — — —		29,427 — —		
	Paid to Mr. John Mc Kenzie, Custom Master, to enable him to pay the Amount of a Decree, with Costs, passed against him in the Supreme Court, in favour of Dotteram Tarreefdar, as per Order of Council, dated the 13th January 1778 — — — —	73,887 14 13			
	Deduct, received of him, on account of the Rice sold — — —	23,063 9 —			
			50,824 5 13		
				80,251 5 13	
		S.a R.s		1,09,214 6 13	
		Batta 16 per Cent.		17,474 4 19	
					1,26,688 11 7

Losses and Interruptions in the Revenue, caused by Suits instituted in the Supreme Court, against the Company, their Officers, or Land Renters.

Calcutta Committee.

Balance due from Comaul ul Dean Khawn, Farmer of Kedglee, which the Committee were prevented collecting, by the Interference of the Supreme Court, the greatest Part of which, but for its Interference, would have been recovered, viz. — —	156,308 8 14	
Land Rents —	22,676 12 18	
		1,78,985 5 12
Balance due from Kanoo Motey Loll, and Bancharam Motey Loll, Farmers of Bunidgehutty and Hattiaghurr — — — — — —		77,003 5 16

An Aumeen was sent to sequester the Effects of Kanoo Motey Loll, but he was arrested and put into the common Jail, and all Proceedings by this Manner stopped. Jeyneraur Gosaul was Security; he has been called upon to pay the Balance, without Success. It would have been dangerous to have enforced Demands in this Instance, after the Severity exercised on the Sezwal, the Karcoon, and Fussildar, who were all confined. The whole Balance is stated as a Loss; how much would have been recovered, cannot be ascertained; the Court prevented further Proceedings for the Recovery of it.

	Balance due from Durgachurn Chuckerbutty, over and above the Sum which he paid, and which was after, by Decree of the Court, returned to him, as stated above — —		1,502 11 —		
	The Demand of Payment was made, but suspended after the Decree given by the Court.			2,57,491 6 5	
	Patna.				
1779.	Paid to the Family of the Muftee Gullaim Mucdoom, he being in Priſon, by Decree of the Supreme Court — — — — — —	100 — —			
	Do to the Family of Muftee Benhutt Ullah, alſo in the ſame Situation —	100 — —			
			200 — —		
	Paid to Roy Mohun Loll, his Way Charges to Calcutta, he being removed from the Dewanny Priſon by a Writ of Habeas Corpus, at the Suit of Mr. Droz — — —		400 — —		
	Do the Family of Muftee Benhut Ullah, and Golaim Muckdoom, at 3 Payments, each 100 A. Rs —		600 — —		
	To a Loſs ſuſtained in Sandit Bulleeah, the Sheriff's Officer having ſeized the Produce of Demneehouath Village Milhiet, of the Muftee Koothartoolah — — —		244 2 —		
				1,444 2 —	
				2,58,935 8 5	
	Batta 16 per Cent.			41,429 10 18	3,00,365 3 2

Moorſhedabad.

In the Bengal Year 1182, one Kiſſen Chund was appointed Sezwall of the Pergunnah Silbeerris, the Talook of Kurram, &c. againſt whom there was a Balance of 21,700 Rupees, to the End of 1181. The Sezwall was alſo entruſted with the Inveſtigation and Collection of 4,600 Rupees, which, according to the Complaints of the Talookdars, had been embezzled by Chuttock Muckergea, on the Part of Santram Sing. The ſaid Muckergea having paid 1,000 Rupees to the Sezwall abſconded, inſtituted a Suit in the Supreme Court, and carried down the Sezwall. On this Account a Loſs of near 50,000 Rupees, on account of the Balance of 1181, and of the Revenue of 1182, with the Amount of the Embezzlement, fell on the Government; and the Sezwall now prefers a Claim of 2,494 Rupees, on account of his Law Expences.

N. B. The Council at Moorſhedabad not having ſtated any definite or determined Sum to have been loſt, by the Means aforeſaid, although the Eſtimate of the Loſs may be very juſt, or even leſs than it actually amounted to, it is not here carried out, or included in the Total of this Account, which contains nothing but aſcertained Payments, Damages, and Loſſes, actually ſuſtained by the Honourable Company, on the Accounts and by reaſon of the Cauſes before ſtated.

Current Rupees — —	34,93,161 14 4

Fort William, 3d March 1780.

Errors excepted.

Exd.
Wm Larkins,
Accountant General.

Warren Haſtings,
P. Francis,
Edwd Wheler.

THE

PATNA, DACCA,

AND

COSSIJURAH

APPENDIXES.

PATNA APPENDIX,

Nº 1.

Tranſlation of a Petition from Behader Beg.

Health to the Supporter of the Poor.

MIRZA Shaw Bauz Beg Cawn ſent for me from Kabool, and ſaid to me, You are my Brother's Son. There is no Difference between my Brother's Son and a Son; I make you the Maſter of my Houſe; you are my Deſcendant whenever you may be acquainted with every Thing: Having given every Thing into your Charge, I will go to Cabool. Thus it is known to every Body, and the Engliſh Gentlemen alſo knew it, that he made his Heir, and the Repreſentative of himſelf. Thus I received a Killaut of Two Shauls from the Preſence of Governor Bahadar, whoſe Proſperity endure. Now the Wife of the deceaſed Khan, being incited by divers deceitful Perſons, has ſecretly carried away the Effects from the Houſe, and keeps them in another Place: I therefore pray from your Honour, That ſome Hircarrahs may be ſtationed by Government, that they may not find an Opportunity of removing the Effects; and whatever may have been carried away, may be alſo demanded, and kept in the Houſe; and that an Order may be iſſued to the Cauzee from the Preſence to aſcertain my Right; and having eſtabliſhed my Right, may give Information to the Preſence, that your Petitioner may obtain his Right.

The Petition of your Servant,

(Signed) Behader Cawn.
Endorſed 2d January 1777,
Thurſday.

Feraquet Ullah.

(Signed) G. Bogle.

A true Copy.
(Signed) Wm Smoult,
Clk of the Papers.

PATNA APPENDIX, N° 2.

Tranſlation of Report of the Cauzy and Muftees, upon the Diſpute between the Widow and Nephew of Shaw Baz Beg Khan, about his Eſtate.——Decree in Favour of the Nephew.

THE Cauzy and Muſtees now deliver in the following Report on the Right of Inheritance, claimed reſpectively by the Widow and Nephew of Shaw Baz Beg Khan, to his Eſtate and other Property.

Report of the Cauzee and Muſtees appointed on an Enquiry relative to the Right of Inheritance, claimed reſpectively by the Widow and Nephew of Shaw Baz Beg Khan, to his Eſtate and other Property. Bahadar Khan alledged, That he was the Nephew and adopted Son of Shah Baz Beg Khan; that, as ſuch, he had a Right to the Inheritance of all that Shaw Baz Beg Khan poſſeſſed prior to his Deceaſe; that to prove he was ſuch, Shaw Baz Beg Khan uſed frequently to declare in public, before Men of acknowledged Credit, that Bahadar Khan was his Nephew and adopted Son, and Heir to all that he had; that he was introduced as ſuch to the Gentlemen of Council at Calcutta, at Patna; and that in conſequence of it, the Governor preſented him with a Kelaat, 2 Shawles; that Nadurah Begum's Portion, at the Time of her Marriage, was but 1,500 Rupees, and that Shaw Baz Beg Khan had paid it to her during his Life-time; but that at the Inſtance of Coja Zekereah Kirut Beg, Emayett Ullah Beg, Cauzy Mauzum, and Mahomed Enris, ſhe had produced a forged Will, and a Deed of Gift, relinquiſhing all that he had to her, ſealed with the Seal of the Deceaſed (which the Widow had detained in her Poſſeſſion, and which is not included in the Inventory that has been taken of his Effects) and witneſſed by the above-mentioned People, and upon theſe forged Papers founded her Claim of Succeſſion to the Deceaſed's Property, to his (Behader Khan's) Excluſion. Behader Khan added, That, had Shaw Baz Beg Khan beqeathed any Thing to his Widow, the Bequeſt would have been atteſted by the Law Officers, and witneſſed by himſelf as Heir; that the Deceaſed had bequeathed a Houſe, and ſome Bega's of Land, to Molavey Jemaut ud Deen, which Bequeſt had the Atteſtation of the Law Officers, and was written in the uſual Form; that therefore, had a Bequeſt been made in Favour of the Widow, the Deceaſed certainly would have made it in the Manner before deſcribed. Bahader Khan further obſerved, That, had the Widow poſſeſſed any genuine Deeds of Gift from the Deceaſed, ſhe would have produced them within Three Days after her Huſband died, but that theſe ſhe had now in her Poſſeſſion were forged; ſubſequent to the Deceaſe of her Huſband; and that he relied on the Juſtice of the Gentlemen to puniſh thoſe who were concerned in the Forgery of them, and to prevent the Widow from depriving him by their Means of what was his juſt Inheritance.

On the 27th of Zeccaude 1190, Hedgree Cojah Zekereah, the Repreſentative of the Widow, depoſed, That the Deceaſed on the 10th Ramrauzn, wrote and preſented the Will aforeſaid to the Widow; but that he could not ſay whether the Will was yet in the Poſſeſſion of the Widow, or had been afterwards deſtroyed; and that on the 11th of the ſame Month and Year, the Deceaſed wrote and preſented the Deed of Gift aforeſaid to her, that he would enquire and report to us if the Will was yet forth-coming.—The Day following both the Will and the Deed of Gift aforeſaid were produced, atteſted under the Seals of Cauja Zekerea, Reiut Beg, Enayet Ullah Beg, Cauzee Mohuzzum, and Mahomed Areuz. Ennyaut Ulla Beg, who was then preſent, was aſked as to the Authenticity of the Will; he declared it to be a true one, and to have been written out by Niaz Ally; Coja Zekerea ſpoke to the ſame Purpoſe.—On the laſt Day of Zeccaude, Cojah Zekerea repreſented to us, that beſides the Will, the Deed of Gift, and Marriage Settlement, he had no other Papers in his Poſſeſſion on the Part of the Conſtituent, touching the Eſtate of the Deceaſed.—Again, on the ſame Day Cojah Zekerea further informed us, that the Papers abovementioned were the Grounds on which the Widow founded her Claim of Succeſſion to the Deceaſed's Inheritance.—The Marriage Settlement was then called for; Cojah Zekerea went for it to the Widow, and returned ſoon after, acquainting us that it ſhould be brought Four or Five Ghurries hence; a little while after it was again demanded, and the Cojah replied, he was in ſearch of it.—We then informed him, that if the Paper was forth-coming, it certainly could be produced that Day; that we ſhould continue ſitting till Twelve o'Clock at Night, in order to afford him Time to find it, but that we ſhould wait no longer, and if it was produced afterwards it would not be admitted.—Accordingly we remained ſitting 'till Twelve, but the Paper was not produced.—Cojah Zekerea told us he could not find it that Night, but would bring it to us the next Day, and aſſured us that he did not recollect the Amount of the Portion ſettled in it. Syed Zulpicar Ally, Vakeel of Bahadar Cawn, depoſed, that the Will and Deed of Gift aforeſaid, had been forged after the Death of the Deceaſed:—He ſaid, that ſoon after the Deceaſe of Shaw Baz Beg Khan, there was another forged Paper produced, atteſted with the Seal of Syed Mahomed Cawn, a Relation of Annab Ally Cawn, and deſired to know what was become of that Paper; he alledged theſe Two Papers, the Will and the Deed of Gift, to have been forged ſubſequent to the other Forgery, and that Pains were taken to procure People who could prevail upon

PATNA APPENDIX, Nº 2.

themſelves to witneſs them; that Men of Character had refuſed it; witneſs Ameer Uddeen Selawbut Khan, and Haukim Hady Ally Khan. Ryrut Beg, one of the Witneſſes both to the Will and Deed of Gift, had acquainted Malcolm, an Armenian, a little while after the Death of the Deceaſed, that Shaw Baz Beg Khan had left behind him no Paper of Bequeſt to any one. Selaubut Khan being preſent, was interrogated, and depoſed, that about 12 Days ago Cojah Zekerea came to him, and deſired him, as he had a Seal, to atteſt a Paper; that he replied, he had not his Seal about him, and did not therefore atteſt the Paper; Notes were then ſent by us to Syed Ahmud Cawn, Meer Ameer Uddeen, and Malcolm. The Bearer of the firſt returned with a verbal Anſwer from Meer Ameer Uddeen, acquainting us, that he did not affix his Seal to the Papers alledged to. When we were diſpatching the Notes, Coja Zekerea obſerved, that the Seal of Syed Ahmud Khan had been affixed to the Wuſſyat Namah (or Paper of Adminiſtration) which he (Coja Zekerea) had ſince torn. A little after he ſaid it was upon the Souruthaul that Syed Ahmud Khan's Seal had been affixed, which alſo he had ſince deſtroyed. Coja Zekerea added, that after the Death of the Deceaſed he carried the Will to Hakeem Haudy Ally Khan to atteſt; but that Hakeem Haudy Ally Khan urging that he had no Acquaintance with the Deceaſed's Will, had declined affixing his Seal to it; upon which he (Coja Zekerea) carried the Will back with him.—Syed Ahmeed Khan's Note arriving, purporting that he had affixed his Seal to an atteſted Will, but no Knowledge otherwiſe of the Deceaſed, Coja Zekerea affirmed, the Seal of Syed Mahomed Khan had been affixed to a Copy of the Will; whereupon a Second Note was ſent to him, deſiring to know whether his Seal had been affixed to an original or copied Will? to which he replied, That after the Death of the Deceaſed, in the Month of Zauda, he had affixed his Seal to an original Paper; that he did not remember at preſent who were the Witneſſes who had atteſted the Paper, but that if he ſhould hereafter recollect their Names, he would not fail to inform us.—Malcolm, in Reply to our Note to him, affirmed that he had heard from Ryrut Beg, that the Deceaſed had not left behind him any written Will whatever; and the Peon who carried the Note to him, ſaid, he had been further informed from Malcolm, that Rirut Beg told him the Will had been written after the Deceaſed's Death:—Upon which Coja Zekerea obſerved before us, that what had been affirmed by Malcolm was true. On the Firſt of Zehedge, Coja Zekerea acquainted us, that the Marriage Settlement of the Widow was miſlaid, and that no one knew what was become of it.—On the ſame Day Sied Niauz Ally, whom Enayet Ullah Beg and Coja Zekerea had charged with having written out the Will, declared on Oath, that after the Death of the Deceaſed, Coja Zekereah brought a Draft of a Will to him, which he deſired he would copy fair, upon a clean Sheet of Paper, on which there was no Seal; that Coja Zekerea told him the Draft had been prepared in the Preſence of the Deceaſed; that he did not know whether the Draft had been prepared or not in the Preſence of the Deceaſed; but that, agreeable to the Deſire of Coja Zekerea, he copied the Will fair, and gave it to him.

As it appears from this Enquiry, that the Will and Deed of Gift are not deſerving of Credit from many Circumſtances, and bear the Mark of being ſpurious; as the contradictory Relations of Coja Zekerea confirm our Belief; as an Ekrar Aum or Deed of Gift, &c. (as before deſcribed) is not of itſelf ſufficient to ſecure Succeſſion to Inheritance; as the Marriage Settlement has not been produced; and as Coja Zekerea founds the Widow's Claim of Succeſſion upon the Three together (the Will, the Deed of Gift, and Marriage Settlement); as, in ſhort, every Thing urged on the Part of Coja Zekarea ſeems to want Support, and, on the other Hand, as Behadar Khan's Story appears clear and explicit, we would recommend that, excluſive of the Ultumghaw, which does not compoſe a Part of the Inheritance, all the Deceaſed's Property be divided into Four Shares, whereof Three ſhould be given to Behadar Khan, his Father being the legal Heir of the Deceaſed, and himſelf the adopted Son, and the remaining one to Naudera, the Deceaſed's Widow.

Cauzy Saudy.

Golam Muckdoom, Muftee.

Burrucktoolah, Muftee.

Curram Ullah, Muftee.

PATNA APPENDIX, N° 3.

Tranſlation of the Heba Nama, a Perſian Paper, produced by Mr. Droz.

In the Name of God, the merciful and compaſſionate
Bleſſing on Mahomed and his Deſcendants;
May they be ſafe!

Produced in Council, and ſaid to
be forged, 20th January, 1777.
(Signed) S. Droz.

FROM the enlightened Minds of Perſons high in Rank and Reputation, renowned Countries, and generally all Mankind, let it not remain concealed, or hidden, that I Shabaz Khan, Son of Sha Beg, Son of Khaja Futtah Khan, have acknowledged and confeſſed affirmatively, truly, legally, and in a State of good Health, in this Manner, That whatever Articles, Poſſeſſions, and Goods, are my Property; all theſe I have in my Life-time, wholly, ſmall and great, either in my own Hands, or in that of others, of Jaqueers, or excluſive of Jaqueers or Property in Kabul, made a legally valid Gift, and have delivered Seizin and Poſſeſſion, without the Participation of any other Perſon, to Nadura Begum, the Daughter of Shaiſta Khan, my own Wife; ſo that no Perſon, during my Life-time, or after my Death, of my Family, either nearly or diſtantly related, Male or Female, may take Poſſeſſion of or reſume the ſame. Out of whatever Sums have been ſent to Kabul, according to Sunnud and Sunnuds, I have given to the Son of Meynoon, by Name Mahomed Allum, my Uncle, by the Mother's Side, the Sum of 20,000 Rs to be enjoyed with his Poſterity, Generation after Generation; but of the remaining Lands of the Country of Cabul, which either have or may come into Poſſeſſion; my Wife is the Miſtreſs, to beſtow them by Computation on whomſoever ſhe may think worthy, in order that they, paſſing their Lives on its Produce, without Purchaſe or Sale, may pray for my Happineſs in Futurity. With reſpect to that full Siſter's Son of mine, named Khoja Zekerea, I have appointed, that, whether he remain in the Service of the Begum my Wife, or in the Acquiſition of his Learning, he be at all Times provided in Food and Raiment, directing the Defrayment of his Expences to be conſidered as one of thoſe Things abſolutely neceſſary, that his Right may not remain a burthen on me. The Sum of 500 Rupees ſhall annually, at the End of the Year, be ſent to the Houſe of Behadre Khan, on condition of Service and Obedience. She is Miſtreſs of all the Reſt, and may give it to whomſoever ſhe pleaſes; for which Reaſon, theſe few Lines have been written as a Hebanama or Deed of Gift, to remain in future as a Sunnud and Document, as done or made before juſt Believers, and Men of Reſpect. Written the 10th of the Auſpicious Month of Ramzaun, in the 18th Year of the Reign of the Emperor Shah Allum,

The able in War, Khaja Shabuz Khan Behadur.

Of Zethereas

Sealed on the Acknowledgment of the Declarant.

By the Favour of Mahomed firm in Zeal.

Sealed on the Acknowledgment of the Declarant.

Bunda Derga Anayit Ullah.

Sealed on the Acknowledgment of the Declarant.

The Duſt of the Slippers of Mahamed Muzun Beg.

Witneſs to what is herein contained.

* "Allah,"

* The Mark of the Signature of Hajy Mahomed Ais, whatever is in the Body is the Truth.

* More Hand-Writing, apparently in another Hand Writing.

Allum, correſponding with the Year 1190, of the Flight of the Prophet; on whom be the Bleſſing of God and Peace.

Endorſed in Perſian,

According to the Examination of the Law Officers, this Paper came out to be forged; relative to the Falſity of which, an Engliſh Signature has been placed.—Penned on the 20th January 1777, according to the 26th of the Month of Powſs 1184.

N° 55.

27th January 1777.
Monday.

A true Copy.
(Signed) Wm Smoult,
Clk of the Papers.

PATNA APPENDIX, N° 4.

Tranſlation of Ekrar Aum, a Perſian Paper, produced by Ditto.

In the Name of God the Merciful and Compaſſionate, Benediction on Mahomed and his Deſcendants; May they be ſafe!

"Produced in Council, and ſaid to be forged,
"20th January 77.
"S. Droz."

THE Cauſe of writing theſe legally valid Lines, is, that I the Publiſher, who by my Name and Lineage am Khaja Sha Baz Khan, Son of Khaja Shah Beg, Son of Khaja Futtah Khan: Being in good Health and ſound Underſtanding, and in the Exerciſe of all my legal Faculties, have willingly and of my own Deſire, without Force or Diſlike, made this truſt-worthy and legally valid Acknowledgement, in this Manner:—That whatever is in my Poſſeſſion of immoveable Eſtate, in Lands, Houſes, Villages, Slaves Male and Female, Robes, Cloths, or Stuffs of Silk; Goods, Caſh, Articles eſtimated by Meaſure or Weight, or reckoned by Number, Moveables, Veſſels, or Vaſes; Bed Cloths, and Carpets; and whatever may come under the Denomination of Thing or Goods; and whatever eſtabliſhed Debts or Due from other People; all theſe are the Right and Property of Nadera Begum, the Daughter of Shaiſta Khan, my Wife, and are in my Hands in Uſufuiet (Aaruit) and not of

The able in War, Khajah Shabuz Khan Bahadur.

Of Zekera.

By the Favour of Mahomed, firm in Zeal.

A Witneſs.

Seal of Mazum Beg.

A Witneſs to what is herein contained.

* "Alla."

† The Mark of the Signature of the Pilgrim to the Two Sacred Cities, Hajy Mahomed Awez Beg, that whatever is in the Body is the Truth.

* In One Hand Writing.

† In a different Hand Writing.

Right; and my Name in Bills of Sale and Bonds is alſo as in Truſt (Aaruit) being in Truth the Right and Property of the ſaid Perſon. I have diſclaimed and renounced all falſe and contentious Claims in regard to the ſaid Acknowledgement, and I have made a general Diſcharge, and complete and entire Relinquiſhment; neither have I, or my Succeſſors, therein any Right or Demand. The ſaid Woman, in reſpect to me, the ſaid Affirmant hath ratified or confirmed the Whole of the aforeſaid Particulars, ratified them ſincerely, truly, and legally, as done before juſt and reſpectable Men. —Written the 11th of Ramzaun the Auſpicious, the 18th Year of the Reign, according to the Year 1190 of the Flight of the Prophet; on whom be the Bleſſing of God, and Peace.

According to the Enquiry of the Law Officers, this Paper came out to be forged; concerning the Falſity of which, there has been put an Engliſh Signature.—Penned, the 20th of January 1777, according to the 26th of Powſe 1184, Suſuly.

N° 54.
27th January 1777,
Monday.

A true Copy.
(Signed) W^m Smoult,
C^lk of the Papers.

PATNA APPENDIX, N° 5.

Depoſition of Mahomed Cauziem.

In the Supreme Court of Judicature
at Fort William in Bengal.

Between Nauderah Begum, — Plaintiff.
AND
Behadur Beg
Cauzee Shadee,
Mufti Baractoolah,
Mufti Gholam Macdoom, — Defendants.

MAHOMED Cauziem maketh Oath, That he this Deponent is well read in and converſant with the Mahomedan Law, the Study and Practice thereof having been the Employment of him this Deponent from his Youth: That this Deponent is a Doctor of the Muſſulman Law, and held the Office of Naib to Sudder Ul Huckhan, the Daroga or Chief Judge of the Sudder Adaulut Nizamut, or the Supreme Mahomedan Court of Juſtice within the Province of Bengal, for the Space of Three Years and upwards: That this Deponent performed the Duties of this Office, the principal Part of which, was to examine the Proceedings of the Provincial Courts of Phouſdarry Adauluts in Bengal, and to prepare Reports thereon for the ſaid Sudder Ul Huckhan, together with the Muftees and Molavies of the ſaid Court; to collect Authorities from the Mahomedan Law Books, to guide the Determination of the ſaid Court of Sudder Adaulut, in the Reverſal or Confirmation of the Futwahs, or Decrees of ſuch Provincial Courts of Phouſdarry Adaulut. And this Deponent further ſaith, that the Paper hereunto annexed in the Perſian Language, and to which the Seal of this Deponent is affixed, contains Queſtions on certain Points of the Mahomedan Law, and Anſwers thereto; which reſpective Anſwers this Deponent verily believes to be conformable to the Mahomedan Law; and that the Authorities referred to by ſuch Anſwers, are faithfully extracted from Books of allowed Authority among the Mahomedan Law Doctors.

Sworn at Calcutta,
this 4th Day of
March, 1779,
before me,

(Signed) J. Hyde.

Tranſlation of Queſtions and Anſwers in the Mahomedan Law.

Queſt. Should Zeinaub (*a*) Claim certain (*b*) Effects ſtating this Reaſon, viz. That Zeid her Huſband gave all of them to her, and afterwards prefer an abſolute (*c*) Claim to them as being her

Property; is ſuch a Claim according to the Law, fit to be heard or not? Explain, and you will be rewarded.

Anſ. It is not fit to be heard. In the Corakhannee the following Paſſage is tranſcribed from the *Futtivee* Ibaanut; viz. Should a Claimant claim Property, ſtating a Reaſon, and afterwards prefer an abſolute Claim to the ſame Article, his Claim will not be admitted. In the ſame Book, the following Paſſage is tranſcribed from the Futtivee Khaneea; he claimed a Property, ſtating a Reaſon, and afterwards preferred an abſolute Claim of Property; his Claim is not admitted. *Shems Aima Surrukſhee,* declared this in expreſs Terms, in the *Davee Jamee*; and this is the Rule for the Futtiva Futtawee Allumgeree: A Claim of Heba is a Declaration from the Claimant of its having been the Property of the Donor, *Fuſſool il Imaadee.* The Fulwa upon it is as follows: The Claim will not be heard, as the Two Modes of Claim counteract each other.

Queſt. Should the ſaid Woman claim a Property in the ſaid Effects, on account of the Ikrar Aum of her ſaid (*e*) Huſband; is this Claim valid or not?

Anſ. It is not valid. *Futtawee Allumgeree,* a Claim by Reaſon of an Ekar is not valid. And this is the Futwa, the Generality of the (*f*) Shaiks, whom God favour; the ſame is written in the Mooltuckit.

Queſt. Should Zeid give certain Effects to his Wife, and his Wife not declare the Acceptance of them at the Meeting when the Gift was made, is, according to Law, the Article given the Property of the Perſon to whom it was given, or not?

Anſ. It is not. *Futtawee Allumgeree*; the Acceptance of a Print is the Condition which proves the Property of the Perſon to whom it is given; and in the *Hidait,* the Acceptance is reſtricted to the (*g*) Meeting; and in the *Ibrahim Shaby,* a Gift is not valid without Acceptance expreſſed by Words.

Queſt. Should Zeid give certain Effects to his Wife, and ſhe not take Poſſeſſion of them, or take Poſſeſſion of them not at the Meeting when the Preſent was made, without the Leave of the Donor, is a Gift without taking Poſſeſſion, valid or not? or, is taking Poſſeſſion not at the Meeting when the Preſent was made, without the Leave of the Donor, valid or not?

Anſ. A Gift without taking Poſſeſſion, is not valid; and taking Poſſeſſion not at the Meeting when the Preſent is made, without the Leave of the Donor, is not valid.

Maaden Muſſabil: A Gift is not valid without an Ijaib, an Acceptance, and taking Poſſeſſion. The ſame Book, the Prophet has ſaid, a Gift is not valid without taking Poſſeſſion. *Ibrahim Shaby:* The Conditions of the Validity of a Gift, are Three; Ijaub, Acceptance, and taking Poſſeſſion. *Futtawee Allumgeree:* If the Preſent be taken Poſſeſſion of after retiring from the Meeting, the taking Poſſeſſion is not valid, either according to expreſs Law, or to Equity; and if the Article does not appear at the Meeting, and the Acceptor goes and takes Poſſeſſion of it, ſhould this be done with the leave of the Donor, the Gift is valid according to Equity: But if it ſhould not be done with his Leave, it is neither valid according to expreſs Law nor Equity. *Hiddie:* If the Acceptor takes Poſſeſſion at the Meeting when the Preſent is made, without the Direction of the Donor, the Gift is valid according to Equity: But if the Acceptor ſhould take Poſſeſſion after retiring from the Meeting, the taking Poſſeſſion is not valid, becauſe taking Poſſeſſion transfers the Property from the Donor; therefore, after retiring from the Meeting, it is not allowable to take Poſſeſſion without the Leave of the Donor.

Queſt. Should Zeid give to his Wife by One (*b*) Deed, Articles which are his Property, and Jaghire which are not Property, is this Gift valid or not?

Anſw. It is not. *Futtawee Allumgeeree:* It is a neceſſary Condition in the Caſe of a Gift, that the Donor be capable of giving, and in Order to be capable of giving, the Donor muſt be free, in his Senſes, of Age, and the Proprietor of the Article given. Should the Donor be a Slave (*i*), or a Muckatil, or a Meddubbea, or an Umwullid or ſhould there be a Portion (*k*) of Slavery in the Perſon of the Donor; or ſhould the Donor be a Minor, or out of his Senſes, or ſhould he not be the Proprietor of the Article given: In all theſe Inſtances, the Donor is incapable of giving.—In the ſame Book: It is impoſſible for one Perſon to conſtitute another Perſon Proprietor of what is not his own Property; and as the ſaid Gift is invalid in ſome Parts, it is invalidated in the whole Sherra Veckia. A Heba or Gift is a Knot (or Engagement) of Favour. *Aſbbab Wula Nazaier:* If a Knot (or Engagement) be invalid in ſome Parts, the Whole is invalidated.

Queſt. Should Zeid give Two of his Houſes to his Wife, and one to be employed in containing the Property of the Donor, is this Gift valid according to Law, or not?

Anſw. It is not valid. *Futtawee Allumgeeree:* If the Donor ſaid to another Perſon, I have given you theſe Two Houſes, and One of them is employed by the Donor, the Gift of both is invalid.

Queſt. Should Zeid give a Houſe in which he has Property to his Wife, and both live in the Houſe at the Time of the Gift, and afterwards, is this Gift according to Law, or not?

Anſw. It is not valid; In the *Futtawee Allumgeeree,* the following Paſſage is tranſcribed from the *Munlucka,* where it was inſerted from *Abboo Ysoof* (viz.) It is not allowable for a Man to give to his Wife, or a Woman to her Huſband, or to give to a Stranger, a Houſe in which they both live. The ſame is written in *Zukura.*

Queſt. Is the Gift of an Article which does not appear at the Time of giving, valid or not?
Anſw. It is not valid: *Futtawee Allumgeeree:* It is not allowable to give any Thing which does not appear at the Time of giving.

A true Tranſlation.

(Signed) Henry Vanſittart.

EXPLANATIONS.

(a) Zeinaub and Zeid, are Two fictitious Names uſed in ſtating a Queſtion, the former to denote a Woman, and the Second to denote a Man.

(b) The Perſian Word is Unwaud, which comprehends Houſes, and all other valuable Articles.

(c) Claims, according to the Muſſulman Law, are of Two Sorts; the one called Dawee Milk be ſubbab, a Claim with the Statement of a Reaſon: As, ſuch a Thing is mine, becauſe another Perſon has given it to me. The other called Dawee Milk Mutluk, or without aſſigning a Reaſon.

(d) Judicial Decree.

(e) General Declaration.

(f) An Order of Men eminent for their Piety and Learning.

(g) The Meeting, when the Preſent is made.

(h) Engagements are called Akud or Knots, ſuch as a Sale, a Gift, &c. and the Perſian Word tranſlated Deed, means literally a Knot.

(i) In the Chapter of Slavery it is mentioned, that there are Three Alleviations of Slavery—Muckatib, one, with whom his Maſter has entered into a written Engagement, that he ſhall be free after paying a certain Sum of Money; Mudduber, one, to whom his Maſter has promiſed Freedom after his (his Maſter's) Death; Um Wullid, or a Slave, who has borne a Child to her Maſter:—And Perſons under theſe Circumſtances, have ſome Times Advantages which do not fall to the Lot of complete Slaves.

(k) Suppoſe Three Perſons are Partners of a Slave, and Two give him his Freedom, he is then One-third of a Slave (that is to ſay) he is free Two Days, and a Slave One Day.

(Signed) H. V.

Further Queſtions and Anſwers in the Mahomedan Law.

Queſt. In Caſe Zeid has relinquiſhed a certain Property, and died, leaving a Widow and other Heirs, and the Widow of Zeid, claims all the Eſtate as her Property for herſelf under an Ekrar Aum *(a)* of her ſaid Huſband, according to the Muſſulman Law, is this Claim well-founded or not?
Anſw. It is not well-founded. Thus it is written in the Fitwahs (Decrees) of *Ibrahim Shahee:* A Claim of Property under an Ikrar, is not valid according to the Generality of Doctors, whom may God favour. This Doctrine is in the *Abzeea,* and alſo in *Zukheira,* where it is written. But Ikrar is not a proper Foundation of Property; and a Claim of Property under that which is not a proper Foundation of Property, is not well-founded; And according to the Decrees of *Hemadee,* an Ikrar is not a Foundation of Property.

Queſt. In caſe Zeid, having in his Poſſeſſion certain Land, and other Effects not Land belonging to him, makes an Ikrar for the ſaid Property to Zeinaub his Wife, according to the Muſſulman Law, and by Means of this Ikrar of Zeid for the ſaid Property, is the ſame the Property of the ſaid Zeinaub, or not?
Anſ. It is not. Thus it is written in *Zekheira:* A Perſon's Property and Effects, do not paſs to another,

another, except by Reaſon of his being conſtituted Proprietor; and in *Fuzool Emadee*, an Ekrar is a Notice, and not a Mode of conſtituting a Man Proprietor.

Queſt. In caſe Zeinaub prefers a Claim to certain Things in this Manner, that theſe Things are her Property, becauſe the Poſſeſſor had made an Ikrar in her Favour for the ſaid Things according to the Books, is this Claim well founded or not?

Anſ. It is not. Thus it is laid down in the *Futtwa Allumgeeree*, That if a Claim be preferred to a Thing which is in the Poſſeſſion of a Perſon, that this Thing is mine, becauſe the Poſſeſſor made an Ikrar in my Favour; or makes a Claim on him for Money, and aſſerts, that a Thouſand Derheems are due from him to me, becauſe he had made an Ikrar of that Thouſand Derheems in my Favour; or aſſerts, at firſt, thus, that that Perſon has made an Ikrar, that this Thing is mine, or that that Perſon made an Ikrar thus, that ſo many Derheems are due from him to me: This Claim is not valid by the Opinion of the generality of Doctors. Thus it is written in the *Khazanut Ul Muſtyeen.*

Queſt. In caſe Zeinaub in the Claim of certain Effects, prefers an Ikrar in her Favour, of her Huſband, for the ſaid Effects, without declaring the Grounds according to the Law, is this Paper rejected, and is the Claim of the ſaid Woman falſe, or not?

Anſ. This Paper is rejected, and the ſaid Woman's Complaint is falſe; Thus, in *Fittawee Hemadee*, a Man's Deed of Ikrar of Effects, without explaining the Grounds, then certainly that Paper will be ſet aſide, according to the generality of learned Men, becauſe certainly, if the Effects had been his Right, he would therefore have ſet forth the Grounds; when he avoids giving the Reaſons, and has recourſe to the Claim of an Ikrar, it is underſtood that his Claim is falſe. *Shumſort a Ayma Serikſſa* has declared the ſame.

A true Tranſlation.
(Signed) Henry Vanſittart.

(*a*) A General Declaration.
(Signed) H. V.

Queſt. Should Zeid die Childleſs, leaving a Widow and other Heirs, according to Law, what Portion is the Widow intitled to of the Eſtate of Zeid?

Anſ. She is entitled to a Fourth. Thus in *Fuſſool il Amaade*, The Portion of a Wife is a Fourth, notwithſtanding the Exiſtence of all the other Heirs; except a Child, or the Child of a Son, in Caſe of whoſe Exiſtence the Wife is entitled to Eighth in every Inſtance, whether there be one Wife or more; ſhould there be more they will ſhare it between them.

A true Tranſlation,
(Signed Henry Vanſittart.

Queſt. In caſe Zeid, in order to eſtabliſh his Power of Attorney, ſhould produce Two Perſons as Witneſſes on the Part of a Woman who lives retired behind a Curtain, and they ſhould make an Akhbaur, (*a*) on the Part of the ſaid Woman, before the Cauzee, of the Attorneyſhip of Zeid, according to the Law, is that Akhbaur Evidence or not? And is it proper that the Cauzee upon this Evidence, ſhould determine the Attorneyſhip of Zeid to be proved or not?

Anſ. The ſaid Akhbaur is Evidence, and it is proper that the Cauzee upon the aforeſaid Evidence, ſhould determine the Attorneyſhip of Zeid to be proved.—Thus in the *Shooa Vathaia*; there are three Akhbaurs, either as to the Right of one Perſon, with reſpect to another, which is Evidence; or Akhbaur, as to the Right of the Perſon making the Akhbaur—with reſpect to another Perſon, which is a Claim, or on the Reverſe of this, which is an Acknowledgment.—In *Ibrahim Shakee*, when Evidence is produced before the Cauzee, it is incumbent on the Cauzee to iſſue an Order. It is proper in ſo much that if he does not conſider it as incumbent on him, he is an Infidel, and if he delays to iſſue an Order he is reprehenſible.

Queſt. If the Two Perſons, Witneſſes as aforeſaid, ſhould retract their Evidence, is the ſaid Order of the Cauzee annulled or not?

Anſ. Is is not. Thus in the *Futtawah Allumgeeree*: If an Order of the Cauzee be paſſed on the Evidence of Two Witneſſes who afterwards retract the Order will not be annulled. In *Ibrahim Shakee*, it is tranſcribed from the Hedaya: thus, If an Order be paſſed on the Evidence of theſe Perſons, who afterwards retract, it is not annulled, becauſe their laſt Words contradict their firſt Words, therefore the Order will not be annulled on account of the Contradiction of their Words, becauſe both Words are equal in point of Credibility; but the Firſt will have the Preference, becauſe they have been ſtrengthened by Order of the Cauzee.

A true Tranſlation,
(Signed) Henry Vanſittart.

(*a*) Information, Declaration or Notice.

PATNA APPENDIX, N° 6.

Letter from the Chief of Patna to the Governor General.

To the Hon^ble^. Warren Haſtings, Eſq; Governor General, Fort William.

Hon^ble^. Sir,

I WAS a few Days ago honoured with your Letter of the 1ſt Ult°. incloſing the Copies of Two Arzees, preſented by the Widow of the late Shabaz Beg Khan.—It had been for ſome Time reported, that the Widow had employed a Vakeel at Calcutta, and made violent Complaints of Injuſtice:—It was with Pleaſure, therefore, that I found, in the Requiſition of your Letter, an Opportunity to lay the whole State of the Caſe before you; both that you might ſee the Falſity of the Repreſentations made you on the Subject, and at the ſame Time take Cognizance of any thing that appeared to require Correction in our Proceedings.—It is with this View, that I accompany the Engliſh with the Perſian Copies of the Futwa of the Cauzee and Muftees, whoſe Judgment guided our Decree in reſpect to the Succeſſion to the Inheritance: Should their Opinion be founded on wrong Principles, the whole Deciſion falls to the Ground.—The Grievances complained of by the Widow, are ſimply reduced to Three Heads: The Excluſion of the Title to the whole Eſtate, in right of the Will in her Favour; the Admiſſion of Bahadar Khan, in the Share decreed to him in conſequence; and her being turned out of her Houſe, and forced to take ſhelter in the public Durgeau.

The Reaſons that urged the Board to take Notice of the Affair ſo ſoon after the Deceaſe of Shabaz Beg Khan, appear from the Arzee of Bahadar Khan.—No ſooner was the Khan dead, than the Houſe was taken Poſſeſſion of by Ghyrut Beg, &c. who aſſumed an Authority in the Houſe of the Widow.—Bahadar Khan was turned out, and the Effects, in Part, removed; at leaſt there is very ſtrong Cauſe to ſuſpect that this was effected, by the Appearance of Things when the Cauzee, &c. entered the Houſe, and from the Obſtinacy with which the Widow refuſed to admit the Slave Women, who managed the Tranſaction, from being brought to an Examination.—Whether Bahadar Khan's Repreſentation was really true, or proceeded only from his Apprehenſions, the Board's Conduct, in this particular, was indiſpenſably neceſſary.

The Proceedings of the Law Officers (which are, as they generally are, in ſome Degree defective in Point of Form and Preciſion) will ſhew, what Appearance the Will made on the Trial before them.—From the verbal Examination of the Parties before the Board, when the Report was given in, we were well ſatisfied that the Will had been forged; which was very practicable, the Widow having then, and ſtill retaining, Poſſeſſion of the Seal.—Had the Khan really executed ſuch a Deed, he would have taken Care, that it ſhould have been authenticated by the Cauzee, or at leaſt by other Perſons, than thoſe whoſe Names ſtand as Witneſſes upon it.—Gyrut Beg, one of the moſt active in this Matter, had been diſmiſſed by the Khan from his Service for ill Behaviour, and not allowed to enter the Houſe; it was not very probable, therefore, that he would have been choſen in preference for ſuch a Purpoſe.—Our own Judgment agreeing perfectly with that of the Law Officers, we could not do otherwiſe than reject the Validity of the Will. As theſe Kind of Forgeries are too common a Practice, it became our Duty to confine the Delinquents, that they might be brought to Puniſhment, after their Guilt ſhould appear fully clear on a Trial at the Phouſdarry Court. This has hitherto been delayed, to procure Reſtoration of the Effects ſaid to have been embezzled by them; but as the Matter cannot be brought to a fair Enquiry, the Widow refuſing to allow thoſe Women to give Evidence, who alone would bring Proof of the Fact, they are now made over to the Phouſdarry Court.—It may appear harſh, and perhaps irregular, to have kept theſe People ſo long confined, without bringing them to a Trial; but the Board were of Opinion, that no other Mode could be taken to obtain the Effects, which would be irretrievably loſt, if they were firſt diſmiſſed from under their Charge.

The Title of Bahadar Khan is admitted by the Cauzy and Muftees, in Right of Conſanguinity to the Deceaſed.—This we neither could, or ſaw any Reaſon to contradict.—The young Man had been purpoſely invited from Kabul, and publicly declared by the Khan to be intended as his Heir.—He was introduced as ſuch to the Gentlemen here, accompanied him to Calcutta; and he himſelf ſets forth, that he received a Khiloat from you.—Why the Khan did not make a Settlement of his Property and Effects before his Death, of the Approach of which he had ſufficient Warning, appears ſtrange, and can only be accounted for by the old Man's Attachment to his Riches and to Life, which would not allow him to dwell on the painful Conſideration of parting with either.—This may be a Paſſion or Weakneſs incident to human Nature in general; but the Khan was well known to be particularly under its Influence.

The

PATNA APPENDIX, N° 6.

The Widow's Repreſentation, of being turned out of her Houſe, is wholly groundleſs.—She was repeatedly told to ſtay there in full Security; but diſſatiſfied with the Defeat her Schemes had met with, ſhe rejected the Dividend of Effects, and quitted the Houſe, to make her Condition more pitiable, by retiring to the Dergeau; where, however, ſhe has procured good Apartments, and lives with all the Women of the Deceaſed.—She complains of being denied the Diſtribution of Fruits annually given in Preſents by the Khan; this ſhe could not reaſonably expect after what had paſſed.

Through the Whole of the Proceedings, though the Widow's name ſtands as a Principal, and ſhe really is ſuch, yet the Motives for her Conduct muſt be looked for in the Advice and Intrigues of Ghyrut Beg, and others of her Party, whoſe Wives are now ſtationed round her.—The Struggle was, in fact, between them and Bahadar Khan, for the Charge of the Widow, and the Poſſeſſion of the Eſtate; and this is ever the Caſe, where a Widow has a Claim to any conſiderable Inheritance.—The Women of this Country, and particularly the Muſſelmen Women, are, from their confined Situation, bred up in too much Ignorance and Subjection, to be capable of judging or acting for themſelves; they become, in conſequence, merely Tools in the Hands of their Vakeels, and neither fare better or worſe, which ever Side ſucceeds in the Conteſt.—On this Account there ſeems much reaſon in the Cuſtom of their being required to live under the Protection of the next Male Heir.

Beſides her Fourth Share of the Effects, the Board added a like Proportion of the Eſtate, which would bring her in Five or Six hundred Rupees per Month; no ſmall Sum for the Maintenance of a Widow, without Children, who had been uſed to live on a ſcanty Allowance from her Huſband.

I mention this only to take off from the Virulence of her Complaint of ill Treatment and Oppreſſion; not to prove that any Proviſion in Part is adequate, where a Perſon has legal Right to the Whole.

The Intention of placing Sepoys over the Widow, was to intimidate her to give up the Slave Women, Papers, and Seal of the Deceaſed; but that failing of Effect, they are taken off, and Ghyrut Beg, &c. are ſent to the Phouſdarry Cutcherry, to take their Trial for the Forgery.

We are cautious of incurring Cenſure by Acts of Violence, however ſanctified by the Opinion of Muſſulman Law Officers:—Neceſſary coercive Meaſures of Government eaſily acquire the Name of Oppreſſion; and ſhould the Paſſions of the Woman urge her to any Act of Deſperation, the Effect, and not the Cauſe, would be principally conſidered, and the Bloody Scene painted with a thouſand Aggravations by the Prejudices of the Nation.—We ſhall therefore defer all further Proceedings in reſpect to the Widow, till what has already been done, undergoes the Examination of the Law Officers at the Preſidency; and I am favoured with further Directions from you, in reſpect to the Part the Board is to take in the Tranſaction.

In the mean Time, the Seal of the Deceaſed remains in the Hands of the Widow: She ſays it is not to be found; but it does not admit of a Doubt but it is in her Poſſeſſion, and the worſt Conſequences are to be apprehended from the Abuſe of it.—A Bond for Thirty thouſand Rupees has already been produced againſt the Eſtate, at the Dewannee Adaulut, ſaid to have been given about Seven Years ago for old Balances of Thirty and Forty Years ſtanding, by the Khan, on ſettling Accounts with the Bond-holder, who has been brought up from Boglepore to proſecute his Claim.—It is not very likely that a Mehajin ſhould ſuffer a Man of the Khan's Reſponſibility, to paſs out of the World, without calling upon him for ſo capital a Sum, eſpecially as his Death was not ſudden, but the Effect of a viſible Decay and long Sickneſs.—It is probable, that more of theſe Bonds may appear, and every Precaution will be taken to prevent the Detection of the Defraud: At leaſt the little Regard that is paid to Oaths in this Country, renders eaſy the Proof of any Deed, as far as it depends on a Number of Witneſſes.

I have now, Sir, laid before you an Account of this Affair at large, which I ſhall conclude, with ſubmitting my Opinion, that after the Deciſion of the Cauzee, &c. if any one has Cauſe of Complaint, it is Bahadar Khan, who has lately got an Account of the greateſt Part of the Money, left by the Deceaſed, being conveyed out of the Houſe by Ghyrut Beg, and others of the Widow's family, before the Intervention of the Cauzee's Officers.

I am, with great Reſpect,
Honourable Sir,
Your moſt obedient, humble Servant,
(Signed) Ewan Law.

Patna,
the 7th May 1777.

PATNA APPENDIX, Nº 7.

Copy of a Letter from the Governor General to Mr. Ewan Law, Chief of the Provincial Council at Patna.

Sir,

I Have received and carefully peruſed your Letter of the 7th May, with an Extract from the Proceedings of your Board, relative to the diſputed Claims on the Eſtate of the late Shabaz Beg Khan.

I have no Doubt of the Juſtice of your Determination with reſpect to the Will, nor of the Legality of the Decree on which it was founded.—I myſelf remember the Circumſtance of Behadar Beg's Introduction to me, and that I preſented him with two Shauls; and have ſome faint Recollection, that Shabaz Beg told me, he had appointed Behadar Khan his Heir, and that he intended to retire to Caboul.

I cannot but take Notice of great Irregularity in the Proceedings of the Law Officers, whoſe Buſineſs was ſolely to have declared the Laws. The Dewannee Court was to judge of the Facts; their taking on themſelves to examine Witneſſes, was entirely foreign to their Duty; they ſhould have been examined before the Adaulut.—Again, when the Board had iſſued their Orders for ſeizing the Seal of the Deceaſed, together with his Effects and Papers, and alſo to oblige the Slave Girls to appear as Evidences, the Law Officers, as they received the Orders, were highly blameable in not immediately carrying them into Execution; nor ought the Board to have admitted any Plea in excuſe, but ſhould have inſiſted on their Orders being enforced. This might eaſily have been done, without any Infringement of the Cuſtoms obſerved towards the female Sex.—In every well-regulated City in Hindoſtan, Women, called Dacys, are appointed to act as Peace Officers, in all Caſes where Women are concerned—If there is no ſuch Eſtabliſhment at Patna, it is highly proper that there ſhould be one—Theſe ſhould have been employed to ſeize by force, if neceſſary, the Seal, Papers, and Effects of the Deceaſed, to have obliged the Slave Girls to appear to give Evidence, and alſo to have confined the Perſon of the Widow, if found requiſite.

Your Apprehenſions of the Effects that may be produced, by the Seal having been ſo long in the Poſſeſſion of the Begum, are juſt; but theſe, with proper Attention, may be prevented; for, though Papers may be forged, and Evidences may appear in Numbers to atteſt them, yet I cannot be perſuaded, but it muſt always be an eaſy Matter to detect the Falſity of any forged Paper produced, by examining the Witneſſes ſeparately, and ſubjecting them to a ſubſequent Croſs-Examination; in which Caſe, if falſe, they will not be able to perſevere in One regular conſiſtent Story.—And every Inſtance of Forgery or falſe Evidence ought to be puniſhed;—A few Examples will put a Stop to the Practice.

I now incloſe you the Tranſlation of an Arzee, which I have lately received from the Widow. As it contains ſeveral Aſſertions of a very extraordinary Nature, I muſt requeſt that you will make the minuteſt Enquiry, and tranſmit the Reſult to me.

I am, Sir,
Your moſt obedient
humble Servant,
(Signed) Warren Haſtings.

12th January 1778.

PATNA APPENDIX, No. 8.

In the Supreme Court of Judicature at Fort William in Bengal,
this Thirtieth Day of November, in the Year of our Lord
Chriſt One thouſand Seven hundred and Seventy-eight.

Court of Pleas.

Nauderah Baigum,
V.
Bahader Beg,
Kazee Saidee,
Muftee Barructola, and
Muftee Gullaum Muchkdoom.

William Young, Witneſs for the Defendants, being duly ſworn, depoſeth,

I AM in the Service of the Eaſt India Company, and a Member of the Council at Patna—I have been in that Office between Three and Four Years.—I know the Defendant Bahader Beg.—I do not know that he holds any Employ under the Company, or under the Council at Patna.—I do not imagine he could hold any ſuch Employment without my Knowledge.—There are Two Places of Gidore and Amertoo in the Province of Bahar.—I do not know that there is any in thoſe Diſtricts.—The Senſe of the Word Phouſdar, as I underſtand it, is an Officer who has criminal Juriſdiction; it likewiſe is ſometimes applied, though erroneouſly, to a Farmer, or to a Perſon employed as a Servant on the Part of Government, in the Collection of the Revenue. Theſe Pergunnahs are farmed out; and a Farmer is ſometimes by them called an Aumeel, but is properly an Izardar *. There is ſuch a Farmer in this Place.—Zulficar Ally is the Perſon that we farmed the Country too, with whom the written Engagements for the Farm are made, and Bahader Beg (the Defendant) is the Security for Zulficar Ally.—I do not know that the Defendant Bahader Beg, executes any Office, in any of the Senſes in which I conſider a Phouſdar.—But it frequently is the Caſe, that the Security alſo appears, is concerned, and ſometimes the Principal, in the Collections—The Security is in Fact ſometimes conſidered as the Principal—If there was any Failure in the Payment of the Rent, in this Caſe, we ſhould refer to the Security; but till this happens, it is not a Queſtion with us, who ſhall be conſidered as the Principal. Upon the Failure of the Principal, and the Security being called on to pay the Arrears, I do ſuppoſe that he would apply to us for Authority to collect.

Croſs Examined.

There are Two Places of the Name of Gidore and Amertoo.—When I ſpeak of Bahader, I mean to ſpeak of both Places.—I do not know that Behadar was directly concerned in the Collections; as being the Security, and as Securities do ſometimes act in the Mofuſſil, I cannot ſpeak poſitively, whether Bahadre was, or was not concerned in the Collection of the Revenue.—It may or may not have been ſo.—I do know Zulficar Ally; he is an Inhabitant of the Town of Patna.—I can only ſpeak poſitively of the Engagements; I cannot ſpeak poſitively who is the real Perſon; when the Deed was executed, I ſuppoſe it was executed upon the good Credit of Bahader Beg.—I do ſuppoſe Behader Beg to be the real Farmer; there is nothing particular which makes me ſuſpect this.—By the Deed, I mean the Pottah or the Kiſtbundee; either is conſidered as binding with us.

Examined by the Court.

When an Application is made to Government for Aſſiſtance, if that Application ſhould be made by the Perſon who has not entered into the Engagements, but is only Security, I do ſuppoſe, that it would not happen till the Perſon who had entered into the Engagements had failed.—If the Security appeared to us to be really the Principal, the Application would be made by him, and the Aid in conſequence given to him.

In this Caſe, no Application was ever made to us; but is cuſtomary, even where the Security is the real Farmer, ſtill to iſſue the Orders in the Name of the Perſon who enters into the written Engagements.—Under the general Order, to aid the Perſon under written Engagements, the Security may employ the Power of Government.

That which was let to farm, was the Revenues of the Pergunnah.—By a Farmer, we underſtand a Perſon who enters into a ſpecific Engagement to pay a certain Sum for the Revenue of the Country, and the Government has no other Claim on him.—By a Collector we underſtand, a Perſon, who, for a fixed Salary, is to be employed in collecting the Revenue of the Government, which is fixed at a certain Sum—A Deduction is to be made from it for his Charges, and the Balance is the Net Sum to be paid to Government.—If he collects more, he is liable to be called to account for it.—In the Caſe of a Farmer, it is not ſo.

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* By the Word *Farmer* in the Indoſtan Language, is meant Izardar.

(Signed) James Durnford,
Clerk of the Depoſitions.

(Signed) Wm Young.

A true Copy.
(Signed) James Durnford,
Clerk of the Depoſitions.

PATNA APPENDIX, N° 9.

Depoſitions of Anatoola Beg.

In the Supreme Court of Judicature at Fort William in Bengal, this Thirtieth Day of November, in the Year of our Lord Chriſt One thouſand Seven hundred and Seventy-eight.

Court of Pleas.

Naudera Baigum,
V.
Bahadre Beg,
Kazee Sahdee,
Muſtee Barrucktoolah, and
Muſtee Gullaum Mahkdoom.

Anatoola Beg, Witneſs for the Plaintiff, being duly ſworn, depoſeth.

I Know the Defendant, Bahadre Beg.—Formerly the Defendant had no Employ, but lived in the Family of Shaw Bauz Beg Cawn, who was himſelf a Servant of the Company.—There are Two Places in the Province of Bahar, one a Pergunnah named Gedour, and the other called a Zillah, being a Quarter of the Extent of the former, and both together making about Twenty-five Villages, of which Shaw Bauz Beg Khawn was in his Life-time Chokeydar, and the Defendant has ſucceeded him therein.—From the Time of the Death of Shaw Bauz Beg Khan the Defendant has been in the Employ of Hodedar, which is about Two Years.—I know that the Defendant Bahadre Beg appointed a Deputy, who collected the Revenue of the Diſtrict.—I know the Two Perſons that the Defendant Bahadre appointed as his Deputies; for Gidour he appointed Haſſas Mahomed Khan—I myſelf did not go into the Pergunnah—I heard it only from reputable People of the Pergunnah.—The Two Deputies appointed by the Defendant, I could not ſee that they paid the Revenues that they collected to the Defendant, as I was in Priſon—it was a Matter of public Notoriety.

Croſs examined.

The Defendant Bahadre was appointed from the Nizamut.

(Signed)

(Signed) William Smoult,
Clerk of the Depoſitions.

A true Copy.

(Signed) James Durnford,
Clerk of the Depoſitions.

PATNA APPENDIX, No. 16.

Depoſition of Meer Cawn.

In the Supreme Court of Judicature at Fort William in Bengal, this Thirtieth Day of November, in the Year of our Lord Chriſt, One thouſand Seven hundred and Seventy-eight.

Court of Pleas.

Nauderah Begum
v.
Behadre Beg,
Kauzee Sahdee,
Muftee Barrucktoolah, and
Muftee Golaum Makdoom.

Meer Cawn, Witneſs for the Plaintiff, being duly ſworn, depoſeth,

I Know the Defendant Behadre Beg—I have known him for about Eight or Nine Years; he is Phouſdar of Giddoor in the Province of Bahar.—I know that the late Shaw Baz Beg Khawn's Jagheer was near the Place where Behadre Beg acts as Phouſdar—he holds the Place of Phouſdar under the Company;—he has been Phouſdar ſince the Death of Shaw Baz Beg Khawn to this Time;—he collects the Company's Revenue of Giddoor and Amertoo from the Rajahs, and pays this Revenue to the Company.—I have ſeen him pay the Money which he collected to the Treaſurer of the Company.—Behadre makes the Collections, and pays it Month by Month, into the Treaſury.—I ſaw him only once pay the Revenue to the Treaſurer at Patna:—The Treaſurer lives in the City; I do not know the Name of the Treaſurer.—The Revenue was paid at the Houſe of Saddooram Duram at Patna, where the Treaſury is kept;—All the Buſineſs of the Revenue is tranſacted in Saddooram's Houſe:—Saddooram is the Company's Dewan of that Pergunnah;—Shaw Baz Beg Khawn was Phouſdar before Behadre Beg;—Saddooram was generally underſtood to be the Company's Dewan;—Behadre Beg is the Phouſdar, and acts under Mr. Law, the Company's Chief at Patna.—

Croſs Examined.

The Duty of a Phouſdar is, that when the Land is delivered to him, he is to collect the Revenues, pay ſo much to the Company, and keep ſo much for his own Labour.—Whoever is the Magiſtrate (Hawkim) of the Place, appoints the Phouſdar—By Hawkim I mean the Chief.—If Behadre Beg is not Phouſdar, why ſhould he make the Collections? he collects the Revenue, and tranſacts the Buſineſs of a Phouſdar.—Phouſdars only collect the Revenue.—When a Phouſdar is appointed, he ſends who he pleaſes to make the Collections—Shaw Baz Beg Khawn was Phouſdar—Behadre has appointed his own Father-in-Law to make the Collections under him; and he accordingly does ſo.—I have heard Behadre give Orders reſpecting the Collections.—When a Phouſdar is appointed, it is uſual to give a Paper, under his own Hand, to the Naib.—It is known to every one, that a Naib was appointed by Behadre:—I have not heard any particular Orders given, but I know it is generally known to every body, that the Naib makes the Collections under Behadre Beg.—When any Order is given by the Phouſdar to the Naib, the Phouſdar will not ſpeak in the Preſence of every body to his Naib.—It is known between the Naib and the Phouſdar.—The Naib's Name is Hauffez Mahomed Beg.—I never heard the Naib give any Orders.—I am here about this Diſpute; How ſhould I know what Sums of Money the Naib received?—From the Time the Naib was appointed, we had a Diſpute; he would not then tell me what he had done.—I never ſaw the Naib make the Collections.—Before the Diſpute, the Collections were made by Shaw Baz Beg Khawn—I never ſaw Behadre Beg receive any Money on account of the Collections.—I know Anatoola Beg; he was Phouſdar of Giddoor—He was under Shaw Baz Khawn as a Naib—He was not Phouſdar when Behadre Beg was.—Two Years before the Death of Shaw Baz Beg Khawn, Annatoola was out of Employ.—Zulficar Ally is the Vakeel of Behadre Beg—I do not know that Zulficar Ally ſucceeded Annatoola Beg—You may either call Behadre, Audmeel or Phouſdar; they are the ſame Thing.—When the Phouſdarry was veſted in Khawn Saheb, he gave no Security, either before or after the preſent Time, for the Payment of any Revenue.

Examined by the Court.

I reſide at Patna—I have no Employ at preſent—I am Nephew to the Plaintiff, and live with her.

(Signed) James Durnford,
Clerk of the Depoſitions.

(Signed.)

A true Copy.

(Signed) James Durnford,
Clerk of the Depoſi.

PATNA APPENDIX, Nº 11

Minutes of the Judges in delivering the Judgment on the Plea to the Jurisdiction, in the Cause Naderah Begum vˢ Behadre Beg and others.

THE Chief Juſtice, after having obſerved upon the Evidence, and that the Plaintiff had ſupported the Iſſue, declared his Opinion as follows:

The Perſon authorized by Government to collect the Revenues of Government, whether he is employed by the Name of Collector, who is anſwerable to Government for the Sum he receives over and above the ſtipulated Sum he is ordered to raiſe, and receives a monthly Salary as a Compenſation for his Trouble; or by the Name of Farmer, who rents the Revenues of Government for a ſtipulated Price, which he is to pay to Government, and upon whom the Government have no other Claim after the Payment of that Price, and who expects to indemnify himſelf for his Trouble by the Surplus which he may collect; is within the Act of Parliament and the Charter, a Subject of the Juriſdiction of this Court, as being a Perſon employed by, or directly or indirectly in the Service of, the Eaſt India Company; and if this be not the Caſe, by ſimply changing the Name of the Officer, and paying for his Trouble in a different Mode, every ſalutary Proviſion of the Act of Parliament, intended to remedy Oppreſſion and Extortions in the Collections of the Revenues, would be evaded. And I now declare, what I have frequently declared from this Place, that Oppreſſions and Extortions, repreſented in England to have been exerciſed by the Officers of the Collections, whether truly or falſly, were, as I have ever underſtood, one principal Reaſon for the Eſtabliſhment of this Court.—I take this Opportunity of declaring my Opinion, as I always have done upon public and general Points, in the Firſt Caſe which has brought the Queſtion fairly before the Court, both becauſe I think it material that the Opinion of the Court ſhould be generally known as a Rule of Conduct to the Eaſt India Company, and that that Opinion, if erroneous, may be corrected as early as poſſible. This is no ſudden Opinion. The Queſtion, though never before this Time actually being in Judgment before the Court, yet has been upon different Occaſions collaterally agitated and argued. It has been my Opinion from the Time the Act of Parliament paſſed, to be the Intention of the Act of Parliament and of the Charter, and when in England I was not totally deſtitute of Lights and Information on the Subject. I have conſidered and reconſidered the Matter, have heard many Opinions of very reſpectable Perſons, but have never been ſhaken in my Firſt Opinion, and therefore cannot in this Caſe, againſt that Opinion, give a Judgment which, as I before ſaid, would defeat the main Purpoſe for which this Court was eſtabliſhed. I give this Judgement upon the Deſcription of the Farmer, as given by Mr. Young.

Mr. Juſtice Chambers.

I have not given that frequent and careful Attention to this Queſtion which my Lord Chief Juſtice has done from the Time the Act of Parliament was paſſed, and it is probable I have not had the ſame Lights and Information on the Subject as my Lord Chief Juſtice: I therefore ſpeak with great Diffidence on a Queſtion which I did not expect to ariſe in the preſent Caſe, and for which I am not particularly prepared. I have before ſaid, in the Courſe of this Cauſe, that if a Farmer is to be conſidered as ſtanding in the Place of a Collector of Revenues, he muſt be held to be ſubject to the Juriſdiction of this Court, within the Intention of the Act of Parliament and of the Charter; that if, on the other Hand, he is in the Place of a Zemindar, I incline to think the contrary. But on that laſt Point I give no poſitive Opinion, becauſe it is not neceſſary for the Deciſion of the Cauſe before us; if the Diſtinction be well founded, it is probable that ſome of the Farmers under Government may not be, though others are, Subjects of our Juriſdiction. It is ſufficient to the Determination of this Plea to the Juriſdiction, that the Farmer of Gidhore and Ammertoo, and his Security, are deſcribed as Perſons who farm not the Lands but the Revenues of Twenty-five Villages, who muſt therefore be underſtood to receive thoſe Revenues, not from Tenants at Will, but from the Owners of the Soil; not from Ryots, but from the Rajahs mentioned by the Firſt Witneſs, Meer Cawn. This Conſtruction of the Evidence laid before us, is confirmed by Mr. Young's Definition of a Farmer, by which Term he underſtands a Perſon who enters into a ſpecific Engagement to pay a certain Sum for the Revenue of the Country, on whom the Government has no further Claim.

Mr. Juſtice Hyde.

I am entirely of the ſame Opinion with the Chief Juſtice and my Brother Chambers, that the Plaintiff has prevailed in the Plea to the Juriſdiction; for I think the Evidence of the Witneſs, of the general Report and public Notoriety that Behadre Beg did collect, is very well confirmed, and amounts to ſuch a Certainty that no Perſon who is to try the Fact together with the Law, as we are obliged to do, can entertain a Doubt that he did in fact collect; for Mr. Young ſays, that he ſuſpects he was the real Farmer under the Name of Security, and that ſuch a Security, without applying the particular Powers to the provincial Council, may collect by the Authority of the Principal: By the Principal I mean the Perſon who appears in Writing to be the Farmer, but it is in fact merely nominal. Thus Suſpicion, and this general Courſe of Buſineſs, coupled with no Evidence, ſpeaking of public Notoriety, in my Opinion amounts to ſuch Proof as we are bound to give Credit to, that Behadre Beg was in this Caſe the principal Farmer in Truth, though not in Name, and did in fact collect in the Manner Mr. Young ſuſpects may be the Caſe, then I concur entirely with the Chief Juſtice, that he is in the Service of and employed by the Company, both within the Words and within the Intent of the Act of Parliament and of the Charter.

The Chief Juſtice ſubjoined the following Explanation to his Opinion as affecting Zemindars.

As to the Caſe of a Zemindar, and of which my Brother Chambers entertains a Doubt, I think as he does, unneceſſary to decide in this Cauſe, becauſe it is not the Caſe before us; but I incline to think as he does, that the Caſe of an ancient Zemindar poſſeſſing hereditary Lands, does differ greatly from the Caſe of Behadre Beg; and that if at any Time ſuch a Queſtion ſhould ariſe, we ſhall then by the Evidence before us, be better acquainted with the Situation of ſuch Defendant, than we can be, ſpeaking only of the general Deſcription of Zemindar, concerning whoſe Authority and Situations I am not ſufficiently informed to ſpeak with any Preciſion; I therefore concur with the Reſt of the Bench in Opinion, that there muſt be Judgment for Plaintiff upon this Plea, without giving any Opinion as to the Caſe of any Zemindar whatſoever.

The Governor General deſires that the following Extract of the Proceedings in the Revenue Department of the 5th January 1776; containing his Report, and a Letter and Memorandum from the Chief Juſtice, deſcribing the Circumſtances under which Perſons are amenable to the Supreme Court, may be entered in this Place.

Extract from the Proceedings of the Governor General and Council of Revenue, of the 5th January 1776.

Governor General.

I report to the Board, that a few Days ago I delivered to the Chief Juſtice a Liſt of ſuch Perſons as were mentioned in the Letters from the Provincial Councils, or by Information given to me perſonally by Mr. Cottrell, either to have been impriſoned by Warrants from the Supreme Court, or againſt whom Writs or Warrants had been iſſued; requeſting him to furniſh me with the Deſcriptions of the Circumſtances under which they were ſtated in the Affidavits of the Plaintiffs to be amenable ~~to the Supreme Court of Judicature. The Chief Juſtice's Anſwer,~~ which I received Yeſterday, I meant to lay before the Board this Morning, but forgot to bring it with me; on my Return Home I will ſend it to the Secretary, and requeſt it may be entered on this Day's Proceedings.

The Governor General having ſent the Chief Juſtice's Letter and Encloſure to the Secretary, they are entered as follows:

Thurſday 4th January, 1776.

Dear Sir,

I have ordered the Prothonotary's Office to be ſearched; and I ſend you an Account of the Affidavits by which the Perſons, or thoſe whoſe Names are moſt like thoſe you gave me, are held to Bail. —I find none of the Orders were made by me in the Cauſe of Addub Shaw and Sunder Buſey.— Mr. Juſtice Chambers's Clerk appears to me not to have given due Attention to the Affidavit; for I apprehend if Mr. Juſtice Chambers had obſerved that the Affidavit only went to the Belief of the Deponent, and was not poſitive, he would, purſuant to the Rule of Court, not have granted the Order to hold to Bail. I invariably require a poſitive Affidavit, for if the Party cannot, I will not ſay the Defendant is ſubject to the Juriſdiction. Mr. Juſtice Hyde, I ſee, in the Cauſe of Pronohur Beſs as againſt Sebnarrain Tagoor, Ramperſaud Tagoor, and another, appears to have made the Order on Affidavit, that Ramperſaud only was ſubject to the Juriſdiction of the Court.—I have ſeen neither Mr. Juſtice Chambers or Mr. Juſtice Hyde, but apprehend that the Defendants in both Caſes will be entitled, on Application to the Court, to be diſcharged from their Bail.

I am, &c.

(Signed) E. Impey.

Memorandum

PATNA APPENDIX, No. 12.

Memorandum of Persons said to be served with Process of the Supreme Court.

Calcutta. The Officers of Burdedghauty and Holligaun Pergunnahs, at the Suit of Raggeetoam Mooteeld Ragonaut Ghose, Farmer of Backergunge, at the Suit of Coonnoram Roy.

Seebnarrain Zemindar, } at the Suit of Ordut Saw.
Ramsunker Buxey, }

Copies of the Affidavits by which the Plaintiffs have sworn to the Circumstances by which the Defendants become amenable to the Supreme Court.

Quest. 1. Are Farmers of the Revenue amenable to the Supreme Court?
Answ. Certainly, if Servants of or employed by the Company, &c.

Quest. 2. Are their Agents and Servants as such?
Answ. Certainly, if Servants of, or employed directly or indirectly by, the Company.

Quest. 3. Are Zemindars?
Answ. Not merely Zemindars. According to the underwritten Memorandum, every Zemindar receives a Monthly Sum from the Revenue for his Expences, which commonly bears a Proportion to the $\frac{1}{10}$ of the Groſs Revenue of his Zemindarry, and is conſidered as a Reſervation to him of ſo much of the Produce of the Country, in which he has an allowed Property—the Land being by Law accounted his, and the Produce of it the King's.

Quest. 4. Are Zemindars, being Farmers of their own Lands, amenable?
Answ. I ſhould think not—quo-ad Zemindars, if neither Servants of or employed by the Company, &c.

Quest. 5. Are the Dewans, and Officers of the Collections?
Answ. They certainly are, if Servants of, or employed by, the Company.

PATNA APPENDIX, N°. 12.

Notice of Justification avowed by Behader Beg.

In the Supreme Court of Judicature, at Fort William in Bengal.

George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth.

[illegible] Term, [illegible]

Nauderah Begum
V.
Behader Beig,
Kazee Sahdee,
Muftee Barrucktoolah, and
Muftee Gullaum Mukkdoom.

IT is ordered, that Behader Beig, one of the within named Defendants, be at Liberty on the Trial of this Cauſe to give the following ſpecial Matter in Evidence; that is to ſay, That before, and at the Time of the making an Act of Parliament, made at a Seſſion of Parliament of His preſent Majeſty, King George the Third, in the Nineteenth Year of his Reign, entituled, "An Act for eſtabliſhing certain Relations, for the better Management of the Affairs of the Eaſt India Company, as well in India as in Europe;" the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, then being in Poſſeſſion of the United Company of Merchants of England trading to the Eaſt Indies, were exerciſed by the Preſident and Council of the Preſidency

L. S.
A. Frazer, Sealer.

Preſidency of Fort William in Bengal, before and at the Time of making the ſaid Act of Parliament, eſtabliſhed, That before and at the Time of making the ſaid Act, the ſaid Preſident and Council of the Preſidency aforeſaid, in exerciſing the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues aforeſaid, within the Kingdoms aforeſaid, eſtabliſhed certain Courts, Councils, or Committees, within the ſaid Kingdoms; to which ſaid Courts, Councils, or Committees, the Adminiſtration of Juſtice within the ſaid Kingdoms was, by the ſaid Preſident and Council, before and at the Time of the making of the ſaid Act, committed and entruſted.—That before and at the Time of the making of the ſaid Act at Patna, within the Kingdom of Bahar aforeſaid, there was and had been eſtabliſhed a certain Provincial Council or Committee, conſiſting of a Preſident or Chief and divers other Members, nominated and appointed by the ſaid Preſident and Council of the Preſidency of Fort William aforeſaid, with full Power and Authority to be, ſit, and act as a Court of Juſtice, and to hear and determine Diſputes of Property, Cauſes of Inheritance, and other civil Actions and Suits, between Muſſulmen and Mahomedans, ariſing within the Kingdoms aforeſaid, and to iſſue Proceſs to prevent the removal or ſecreting of the Goods and Effects in Diſpute, pending any ſuch Actions and Suits, and to give Judgment thereon (ſubject to an Appeal to the ſaid Preſident and Council, and to no other) and to enforce ſuch Judgment as ſhould or might be given.—That before and at the Time of the making of the ſaid Act, there were at Patna aforeſaid certain public Officers and Miniſters of the Muſſulman or Mahomedan Law, called Cauzee and Muſtees, attendant upon the ſaid Court for the Purpoſe of declaring and expounding the ſaid Law, and executing the intermediate and final Proceſs of the ſaid Court in Cauſes between Muſſulman or Mahomedans, committed to the ſaid Cauzee and Muſtees for the Execution thereof; and the ſaid Cauzee and Muſtees, by virtue of their public Offices as Cauzee and Muſtees, before, and at the Time of the making of the ſaid Act, did, to the Knowledge and with the Approbation of the ſaid Preſident and Council, exerciſe, and were uſed and accuſtomed to exerciſe, the Power of ſettling and determining Diſputes between Muſſelmen or Mahomedans, reſpecting their Sect, or the Honour of their Families, and to enforce Obedience to the Determination of the ſaid Cauzee and Muſtees thereon.—That for the better Management of the ſaid United Company's Affairs in India, it was amongſt other Things enacted in and by the ſaid Act, that for the Government of the Preſidency of Fort William in Bengal, there ſhould be appointed a Governor General and Four Counſellors; and that the whole Civil and Military Government of the ſaid Preſidency, and alſo the Ordering, Management, and Government of all the Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, ſhould, during ſuch Time as the Territorial Acquiſitions and Revenues ſhould remain in the Poſſeſſion of the ſaid United Company, be, and were thereby veſted in, the ſaid Governor General and Council of the ſaid Preſidency of Fort William, in like Manner, to all Intents and Purpoſes whatſoever, as the ſame then were, or at any Time theretofore might have been exerciſed by the Preſident and Council, or Select Committee in the ſaid Kingdoms.—That in and by the ſaid Act, a Governor General and Council were appointed for the ſaid Preſidency, and for the Ordering, Management, and Government of the ſaid Territorial Acquiſitions and Revenues in the ſaid Kingdoms.—That the ſaid Governor General and Council, ſince the ſaid Appointment, and the taking upon themſelves the Ordering, Management, and Government of the ſaid Territorial Acquiſitions and Revenues within the Kingdoms aforeſaid, have committed and entruſted, and continued hitherto to commit and entruſt, the Adminiſtration of Juſtice within the Kingdom of Bahar aforeſaid, in Manner aforeſaid, to the ſaid Provincial Council or Committee, at the Time of the making of the ſaid Act, eſtabliſhed at Patna aforeſaid, within the Kingdom aforeſaid.—That ever ſince the Appointment of the ſaid Governor General and Council, and their taking upon themſelves the Ordering, Management, and Government of the ſaid Territorial Acquiſitions and Revenues, the ſaid Cauzee and Muſtees have exerciſed and performed, and been ſuffered by the ſaid Governor General and Council to exerciſe and perform, ſuch Powers and Duties as aforeſaid, as well under the Controul and Directions of the ſaid Provincial Council or Committee, as in virtue of their public Offices as Cauzee and Muſtees as aforeſaid.—That at the Time when the pretended Treſpaſſes in the Plaint filed in this Cauſe mentioned are ſaid to be done, the ſaid Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, remained, and were in the Poſſeſſion of the United Company of Merchants of England trading to the Eaſt Indies.—That at the Time when the ſaid pretended Treſpaſſes are ſaid to be done, the ſaid Provincial Council or Committee at Patna aforeſaid, then compoſed of Iſaac Sage, Simeon Droz, Ewan Law, Edward Golding, and William Young, Eſquires, theretofore nominated and appointed, or continued and confirmed by the ſaid Governor General and Council, were uſed and accuſtomed to ſit as ſuch Court of Juſtice as aforeſaid, with ſuch Power and Juriſdiction as aforeſaid, attended by the ſaid Cauzee and Muſtees as aforeſaid.—That before the Time when the ſaid Treſpaſſes are ſaid to be done, the ſaid Defendant, Behader Beg, being a Muſſulman or Mahomedan, at Patna aforeſaid, brought and inſtituted before the ſaid Provincial Council or Committee, then being ſitting and acting as ſuch Court, a certain Cauſe or Suit regarding Inheritance and perſonal Eſtate, ariſing within the Juriſdiction of the ſaid Court, againſt the ſaid Nauderah Begum, then being a Muſſulman or Mahomedan, as it was lawful for him to do.—that pending the ſaid Cauſe or Suit, a certain Precept or Perwannah iſſued from and out of the ſaid Court, at the Inſtance of the ſaid Behader Beg, and directed to the ſaid Cauzee and Muſtees, requiring them to ſecure, collect, and detain the Goods and Effects in Diſpute in the ſaid Cauſe, for the Purpoſe of preventing the removal or ſecreting of the ſame.—That the ſaid Precept was executed by the ſaid Cauzee and Muſtees, in the Preſence of Behader Beg and the Vakeel or Attorney of the ſaid Nauderah Begum, by ſecuring, collecting, and detaining certain Goods and Effects in the Poſſeſſion of the ſaid Nauderah Begum (the ſame being the Goods and Effects in Diſpute in the ſaid Cauſe) for the Purpoſe of ſecuring the ſame according to the ſaid Precept, and not otherwiſe.—That the ſaid Cauſe was further proceeded into Hearing and Judgment; and for the Execution of the ſaid Judgment, certain other Precepts or Perwannahs iſſued from and out of the ſaid Court, directed to the ſaid Cauzee and Muftees, requiring them to allot and aſſign to each of the Perſons intitled under the ſaid Judgment, their and each of their Shares and Portions of the ſaid Goods and Effects ſo ſecured, collected, and detained; which ſaid Precepts or Perwannahs were thereupon executed by the ſaid Cauzee and Muftees.—That the ſaid Behader Beg was preſent at the Execution of the ſaid Judgment, for the Purpoſe of taking and receiving, and did take and receive, a certain Share and Portion of the ſaid Goods and Effects ſo ſecured, collected, and detained as aforeſaid, to which he was intitled under the Judgment, and as it was lawful for him to do.—That all and every the Acts complained of by the ſaid Nauderah Begum, in the Plaint filed in this Cauſe, againſt the ſaid Behader Beg as Treſpaſſes, were no Treſpaſſes, but Acts done by the ſaid Defendants as a Suitor in the ſaid Court, humbly ſoliciting Juſtice within the ſame, or as preſent at and attending upon the Execution of the intermediate and final Proceſs of the ſaid Court in Manner aforeſaid.—That the ſaid Acts done by the ſaid Defendant are the ſame, aſſaulting, beating, and impriſoning the ſaid Nauderah Begum, and breaking and entering her Dwelling Houſe, and turning her out, and carrying away her Goods, in the ſeveral Counts in the ſaid Plaint filed in this Cauſe mentioned, and no other.

Upon the Motion of Mr. Morſe, Counſel for the Defendant.

Witneſs Sir Elijah Impey, Knight, at Fort William aforeſaid, the Twenty-ſixth Day of June, in the Year of our Lord Chriſt One thouſand Seven hundred and Seventy-eight.

By the Court.

(Signed) Naylor,
Atty.

(Signed) Rd. Litchfield,
Prothonotary.

Exhibit D. Read for the Defendants the 5th December 1778.

(Signed) Wm. Smoult,
Reading Clerk.

(A true Copy.)

(Signed) Wm. Smoult,
Clerk of the Papers.

PATNA

PATNA APPENDIX, Nº 13.

The Notice of Juſtification given by the Cauzee and Muſtees, the other Three Defendants.

In the Supreme Court of Judicature
at Fort William in Bengal.

L. S.

(Signed) A. Fraser, Sealer.

George the Third by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and ſo forth.

Third Term 1778.

Nauderah Begum
Vs.
Behader Beg
Cauzee Sahdee
Muftee Barrucktoolah, and
Muftee Gullaum Mukkdoom

IT is ordered, That Cauzee Sahdee, Muftee Barrucktoolah, and Muftee Gullaum Mukkdoom, Three of the within-named Defendants, be at Liberty at the Trial of this Cauſe, to give the following ſpecial Matter in Evidence; that is to ſay, That at and before the Time of the making of an Act of Parliament of His preſent Majeſty King George the Third, in the Thirteenth Year of His Reign, intitled, "An Act for eſtabliſhing certain Regulations for the better Management of the Affairs of the Eaſt India Company, as well in India as in Europe;" the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, then being in the Poſſeſſion of the United Company of Merchants of England trading to the Eaſt Indies, were exerciſed by the Preſident and Council of the Preſidency of Fort William in Bengal, before and at the Time of the making of the ſaid Act of Parliament eſtabliſhed.—That before and at the Time of making of the ſaid Act, the ſaid Preſident and Council of the Preſidency aforeſaid, in exerciſing the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues aforeſaid, within the Kingdoms aforeſaid, eſtabliſhed certain Courts, Councils, or Committees, within the ſaid Kingdoms; to which ſaid Courts, Councils, or Committees, the Adminiſtration of Juſtice within the ſaid Kingdoms was by the ſaid Preſident and Council aforeſaid, before and at the Time of making of the Act of Parliament, committed and entruſted.—That before and at the Time of making of the ſaid Act, at Patna, within the Kingdom of Bahar aforeſaid, there was and had been eſtabliſhed a certain Provincial Council or Committee, conſiſting of a Preſident or Chief, and divers other Members nominated and appointed by the ſaid Preſident and Council of the Preſidency of Fort William aforeſaid, with full Power and Authority to be, ſit, and act as a Court of Juſtice; and to hear and determine Diſputes of Property, Cauſes of Inheritance, and other civil Actions and Suits ariſing within the Kingdoms aforeſaid; and to iſſue Proceſs to prevent the removal or ſecreting of Goods and Effects in Diſpute, pending any ſuch Actions and Suits; and to give Judgment thereon, and to enforce ſuch Judgment as ſhould or might be given.—That before and at the Time of the making of the ſaid Act, all Civil Actions and Suits ariſing within the Juriſdiction aforeſaid, and brought and inſtituted before the ſaid Provincial Council or Committee ſo being and ſitting as a Court as aforeſaid, where the Parties to the ſame Actions and Suits were or ſhould be Muſſulmen or Mahomedans, were and uſed to be determined according to the Muſſulman or Mahomedan Laws; and for that Purpoſe, when and as often as any ſuch Actions and Suits aroſe within the Juriſdiction aforeſaid, and were brought and commenced in the ſaid Court, the ſame were and uſed to be, at and before the Time of the making of the ſaid Act, referred to certain Moulavies, or public and known Officers of the Muſſulman or Mahomedan Law at Patna aforeſaid, verſed in the ſaid Muſſulman or Mahomedan Law, called by the Name of the Cauzee and Muftees.—That when and as often as any ſuch Reference was and uſed to be made at and before the Time of making of the the ſaid Act, the Cauzee and Muftees examined, and were uſed to examine, the Actions and Suits ſo referred to them; and having heard the Parties, or their Vakeels or Attornies, and the Evidence on both Sides, delivered in, and were uſed to deliver in, to the ſaid Court, before and at the Time of the making of the ſaid Act, a Report upon the ſaid Action and Suit ſo referred to them as aforeſaid, agreeable to the ſaid Muſſulman or Mahomedan Law; and thereupon the ſaid Court gave and paſſed, and were uſed to give and paſs, a Decree or Judgment upon the ſaid Action and Suit, ſubject to an Appeal to the ſaid Preſident and Council of the Preſidency of Fort William aforeſaid, and to no other.—That before and at the Time of the making of the ſaid Act, the Execution of any meſne or intermediate Proceſs that did or might iſſue from and out of the ſaid Court, directed to the ſaid Cauzee and Muſtees, in the Progreſs of any ſuch Action and Suit, where the Parties thereto were or might be Muſſulmen or Mahomedans as aforeſaid, and likewiſe the Execution of the Decrees or Judgment of the ſaid Court in any ſuch Action and Suit, as laſt aforeſaid, were, and from Time to Time uſed to be, committed to and executed by the ſaid Cauzee and Muſtees, in purſuance of certain Precepts or Perwannahs for that Purpoſe iſſuable, and from Time to Time iſſued and directed to them the ſaid Cauzee and Muſtees, by the ſaid Provincial Council or Committee, as Occaſion might require.—That moreover, before and at the Time of the making of the ſaid Act, the ſaid Cauzee and Muſtees, by virtue of their public Offices as Cauzee and Muſtees as aforeſaid, did, to the Knowledge and with the Approbation of the ſaid Preſident and Council of the Preſidency aforeſaid, exerciſe, and were uſed and accuſtomed to exerciſe, the Power and Authority of ſettling and determining Diſputes between Muſſulmen or Mahomedans at Patna aforeſaid, reſpecting their Sect or the Honour of their Families, and to enforce Obedience to the Determination of the ſaid Cauzee and Muſtees thereon.—That for the better Management of the United Company's Affairs in India, it was amongſt other Things enacted in and by the ſaid Act, That for the Government of the Preſidency of Fort William in Bengal, there ſhould be appointed a Governor General and Four Counſellors, and that the whole Civil and Military Government of the ſaid Preſidency, and alſo the Ordering, Management, and Government of all the Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, ſhould, during ſuch Time as the Territorial Acquiſitions and Revenues ſhould remain in the Poſſeſſion of the ſaid United Company, be, and were thereby veſted in the ſaid Governor General and Council of the ſaid Preſidency of Fort William in Bengal, in like Manner to all Intents and Purpoſes whatſoever as the ſame then were, or at any Time theretofore might have been exerciſed by the Preſident and Council, or Select Committee in the ſaid Kingdoms.—That in and by the ſaid Act, a Governor General and Council were appointed for the ſaid Preſidency, and for the Ordering, Management, and Government of the ſaid Territorial Acquiſitions and Revenues in the ſaid Kingdoms.—That the ſaid Governor General and Council, ſince the ſaid Appointment, above-mentioned, and the taking upon themſelves the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues within the Kingdoms aforeſaid, have committed and entruſted, and continued hitherto to commit and entruſt, the Adminiſtration of Juſtice within the Kingdom of Bahar aforeſaid, in Manner aforeſaid, to the Provincial Council or Committee, at the Time of making of the ſaid Act eſtabliſhed at Patna aforeſaid, within the Kingdom aforeſaid.—That ever ſince the Appointment of the ſaid Governor General and Council, and their taking upon themſelves the Ordering, Management, and Government of the Territorial Acquiſitions and Revenues, the ſaid Cauzee and Muſtees have exerciſed and performed, and been ſuffered by the ſaid Governor General and Council to exerciſe and perform, ſuch Powers and Duties as aforeſaid, as well under the Controul and Directions of the ſaid Provincial Council or Committee, as in virtue of their public Offices as Cauzee and Muſtees as aforeſaid.—That at the Time when the pretended Treſpaſſes in the Plaint filed in this Cauſe mentioned are ſaid to be done, the ſaid Territorial Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa, remained and were in the Poſſeſſion of the United Company of Merchants of England trading to the Eaſt Indies.—That at the Time when the ſaid Treſpaſſes are ſaid to be done, the ſaid Provincial Council or Committee at Patna aforeſaid, then compoſed of Iſaac Sage, Simeon Droz, Ewan Law, Edward Golding, and William Young, Eſquires, theretofore nominated and appointed, or continued and confirmed, by the ſaid Governor General and Council, were uſed and accuſtomed to ſit as a Court of Juſtice, with the Power of trying and determining civil Actions and Suits ariſing within the Juriſdiction aforeſaid, in Manner aforeſaid—That at the Time when the ſaid Treſpaſſes are ſaid to be done, the ſaid Defendant Cauzee Sahdee was then, and at the Time of the making the ſaid Act, Cauzee at Patna aforeſaid, and the ſaid Muſtee Barructoolah and Muſtee Gullaum Mukkdoom were at the ſaid Time when the ſaid Treſpaſſes are ſaid to be done, Muſtees verſed in the ſaid Muſſulman Law at Patna aforeſaid, and attendant upon the ſaid Court for the Purpoſes aforeſaid—That before the Time when the ſaid Treſpaſſes are ſaid to be done, a certain Cauſe or Suit concerning Inheritance and perſonal Eſtate, wherein Nauderah Begum, the Plaintiff in this Cauſe, was Defendant, was brought before the ſaid Provincial Council or Committee at Patna aforeſaid, then being, ſitting, and acting as ſuch Court; and the ſaid Cauſe ariſing within the Juriſdiction of the ſaid Court, and the Parties thereto being Muſſulman or Mahomedans, was referred to the ſaid Defendants ſo being Cauzee and Muſtees as aforeſaid—That pending the Suit, a certain Order or Precept, or Perwannah, was made and iſſued by and from the ſaid Court, directed to the ſaid Defendants, and requiring them to ſecure and collect, and detain, the Goods and Effects in Diſpute in the ſaid Cauſe, for the Purpoſe of preventing the removal or ſecreting of the ſame; that the ſaid Precept or Perwannah was delivered to the ſaid Defendants, ſo being Cauzee and Muſtees as aforeſaid, to be by them executed according to the Exigency thereof.—That thereupon the ſaid Defendants, in purſuance of the ſaid Precept or Perwannah, ſecured, collected, and detained certain Goods and Effects in the Poſſeſſion of the ſaid Nauderah Begum (the ſame being the Goods and Effects in Diſpute in the ſaid Cauſe) as it was their Duty to do, for the Purpoſe aforeſaid, and not otherwiſe—That the ſaid Cauſe was further duly proceeded into Hearing and Judgment; and for the Execution of the ſaid Judgment, certain other Precepts or Perwannahs were iſſued by and out of the ſaid Court, directed to the ſaid Defendants, ſo being Cawzee and Muſtees as aforeſaid, requiring them to allot and aſſign to each of the Perſons intitled under the ſaid Judgment, their and each of their Shares of the ſaid Goods and Effects ſo collected, ſecured, and detained as aforeſaid, according to the Tenor of the ſaid Judgment, to put each of the ſaid Parties in Poſſeſſion; which ſaid laſt mentioned Precept or Perwannah were duly executed by the ſaid Defendants, ſo being Cauzee and

Muſtees as aforeſaid—That all and every the Acts complained of by the ſaid Nauderah Begum, in the ſaid Plaint filed in this Cauſe againſt the ſaid Defendants, as Treſpaſſes, were no Treſpaſſes, but Acts done by the ſaid Defendants in their reſpective Capacities of Cauzee and Muſtees as aforeſaid, and as their Duty in ſuch Capacities required—That in the Progreſs of the ſaid Suit, and the ſeveral Parts or Stages thereof, wherein it was the Duty of the ſaid Cauzee Sahdee, Muſtee Barructoolah, and Muſtee Gullaum Mukkdoom, to intermeddle, they did intermeddle, and in ſo doing they did conform to their Duty, and to the Practice in ſimilar Caſes uſed and eſtabliſhed within the ſaid Court at the Time of the making of the ſaid Act, and when the ſaid pretended Treſpaſſes are ſaid to be done—That the ſaid Acts ſo done by the ſaid Defendants are the ſame, aſſaulting, beating, and impriſoning the ſaid Nauderah Begum, and breaking and entering her Dwelling Houſe, and turning her out, and carrying away her Goods, in the ſeveral Counts in the Plaint filed in this Cauſe mentioned, and no other.

Upon the Motion of Mr. Lawrence, Counſel for the Defendants.

Witneſs Sir Elijah Impey, Knight, at Fort William aforeſaid, the Twenty-ſixth Day of June, in the Year of our Lord Chriſt One thouſand Seven hundred and Seventy-eight.

Naylor, Attr }
26th June 1778. }

By the Court.
(Signed)
Rd. Litchfield,
Prothonotary.

Exhibit E. Read for the Defendants,
5th December 1778.

(Signed)
James Durnford,
Readg Clerk.

A true Copy.

(Signed)
W. Smoult,
Clk of the Papers.

PATNA APPENDIX, Nº 14.

Letter from the Provincial Council of Patna, with the Petition and Remonſtrance accompanying, of the Renters of the Province of Bahar.

To the Honourable Warren Haſtings, Eſquire, Governor General and Council, in their Revenue Department, Fort William.

Honourable Sir, and Sirs,

WE have been favoured with your Letter of the 3d Inſtant; and in compliance with the Contents, we immediately ſummoned Behader Beg, Cauzee Sahdee, and Muftees Gullaum Mukkdoom and Burkhut Ullah, whom we have ſecured in the public Priſon.

We beg Leave to inform you, that the Execution of Juſtice, ſo far as it relates to that Part of the Inhabitants who are Muſſulmen, is entirely ſuſpended; nor do we apprehend we could eaſily get others to act in a legal Capacity, ſeeing the dreadful Circumſtances to which the preſent Officers are reduced, in conſequence of an Opinion only, and that univerſally believed here to be ſtrictly conſiſtent with Juſtice.

We have this Day received, and ſhall loſe no Time in laying before you, a general Petition and Remonſtrance of the Renters of this Province, againſt their being amenable to the Supreme Court of Judicature. We muſt, in Juſtice to them, declare, that we do not think their Repreſentation of the Hardſhip of their Situation in the ſmalleſt Degree exaggerated. — How far they ought to be allowed to diſſolve their Connections with Government, we do not pretend to determine; certain, however, it is, that, when they commenced Farmers, they had no Idea of being conſidered within any other Juriſdiction than that of the Country Courts of Juſtice, ſubject only to Appeals to you. — How much will the general Alarm of the Inhabitants be encreaſed, when they find that it is declared, that having once held a Farm, or been a Security, makes them for ever, and in all other Caſes, liable to Proſecutions in the Engliſh Court.

We are, &c.

Patna,
11th Febry 1779.

(Signed)
Ewan Law,
Wm Maxwell,
Wm Young,
Shearman Bird,
C. Keating.

(Copy.)

Tranſlate of a Petition from Ahmud Ally Khan, Renter of Sircar Champarun and Pergunnahs Rutty and Gudhaſſun; Sircar Hagipore Reza Cooley Khan, Renter of Pergunnahs Cheynpore and Saſſeram; Bolaky Doſs, Renter of Pergunnah Ghyaſpore; Rajah Bhorum Ajeet Sing, Renter of Pergunnah Beya; Khouſhall Sing, Renter of Pergunnah Sareſſa; Jey Sing Roy, Renter of Pergunnah Havily; Behar Duſſuck Roy, Aumil of the Huzzoor Tauſeel; Mirza Coſſim Bey and Suntook Roy, Renters of Pergunnahs Arrah Burrogowan and Bodgepore; Ram Gopaul, Renter of Caſmar, Security for Pergunnah Caſmar; Rajah Juſſweent Sing, Renter and Zemindar of Pergunnahs Arwul and Muſſowrah; Mahmud Akbul Ally Kawdry, Renter and Zemindar of Pergunnahs Nuthut and Samoy, &c.; Rajah Gopaul Sing, Renter of Pergunnahs Serris and Kotumba; Rajah Mittergeer Sing, Renter and Zemindar of Pergunnah Jammoot, &c.; Annund Sing, Renter of Pergunnah, Ekyle, &c.; Buſhy Sing, Renter of the Sarb Mahal, &c.; Fyzullah Beg, Renter of Kiſmut Munmorah; Huſſeen Cooly, Renter of Ghyah; Huſſeen Cooly, Renter of Sayr Morarpore; Mahmud Raffee, Renter of Pergunnah Charcowan; Newaz-ud-Deen Khan, Renter of the Suddarut; Gumbeer Sing, Renter of the Nuzzuree, Mahaul of Pergunnahs Shajeanpore and Bheempore; Fuzzah Ullah Khan, Renter of Pergunnahs Hagipore, Ballagutch, and Neypore; Mirza Ahmeed Beg, Renter of Pergunnahs Giddore and Amuthoo; Balgovind, Renter of the Half the Pergunnah Bullcah; Sumprit Roy, Renter of Ally Argwis Jaghire; Buchſhynam, Renter of Pergunnah Powarah and Pergunnah Booſary; Gunga Beſhun, Renter of Pergunnah, Peroo, and Nunnoor; Buſhram, Renter of Dinwar; Ludja Sing, Renter of the Jaghire of Iſhmael; Kooly Khan Omraow Sing, Renter of the Baddula Mahul, and Pate; Nakuſs Buſſunt Ally Khan, Renter of Pergunnahs Pillitch and Malda; Akbar Ullah, Renter of Pergunnah Tillaura; Muſtapha Cooly Khan, Renter of Pergunnah Beſſara; Tacur Sing, Renter of Pergunnah Shairghutty; Wahid Ally Beg, Renter of Malda, in the Zilla of Cooſrah; Gullaum Muſtapha, Renter of Pergunnah Mulky; Helaſs Chund, Security and Renter of Pergunnah Bycontpore; Shujan Sing, Renter of Pergunnah Havilly Azeemabad; Raja Kheyalaram, Security for Pergunnah Munneer; Nuſſer Ullah, Renter of Pergunnah Munneer; and Dhurum Juſs, Renter of Pergunnah Fulwary, in the Province of Bahar:

It is with inexpreſſible Grief and Aſtoniſhment that we have learned, from the general Rumour that has ſpread through the Province, that by a late Determination of the Engliſh Adaulut (the Supreme Court of Juſtice) in Calcutta, all Perſons who hold Land in Farm of the Government, and alſo their Securities, are declared within the Juriſdiction of that Court, and liable to be proſecuted therein.—How much this Information has alarmed us, it is not in our Power to deſcribe.—Which of us can venture to enforce the Payment of our Rents, if we are thereby rendered liable to be ſeized and dragged down to Calcutta on a Complaint from the moſt inſignificant or litigious and ill diſpoſed Perſon in the Pergunnah.

We have not the ſmalleſt Knowledge of the Laws and Cuſtom of the Engliſh Court; nor is it within our Conception by what Rules they are regulated; but we appprehend they were formed for another State of Society, Religion, and Country, and are totally different from the Laws and Manners of this.

When the Company firſt came into the Poſſeſſion of the Dewannee, Juſtice was adminiſtered by the Naib Nazim as heretofore. After the Year of the Famine, when a Council was appointed for the Revenues, Two Adaulut Cutcherries were eſtabliſhed; the one for Criminal Cauſes, the other for Cauſes of Property.—The Proceedings in both theſe Courts were regulated by the Laws and Cuſtoms of the Country; and the Gentlemen, who preſided at them, were ordered to decide according to the ancient Conſtitution. To theſe we repaired without Fear; we pleaded our Cauſes ourſelves, or through our Vakeels, in our own Manner, no Expence or Delay attending the Proceſs; and by Reaſon of the Vicinity, the Reponſibility of every Witneſs was generally known: And if the Cauſe related to the Revenue, the Gentleman preſiding was himſelf acquainted with the Affairs, and he gave inſtant Redreſs by Orders the beſt adapted to the Caſe in queſtion; and the Regulations were ſo framed, that Juſtice might be diſpenſed to all; and yet a due Attention and Support given to the Collections. Farmers and Zemindars were not to be called in, but in Matters of Importance, and then not during the Seaſons of the Harveſt. But now the contrary of this will happen to us from the Engliſh Court; and no one will pay the leaſt Regard to the Time when the Settlement and Collections moſt require our Preſence in the Pergunnah Sareſſa. We may by a Warrant be dragged away in the Night, without an Opportunity of ſettling any Part of our Affairs, to a Place 400 Miles diſtant; and which, from a Difference of Climate, often proves fatal.

Many

PATNA APPENDIX, N° 14.

Many of us rely ſolely on our own Induſtry and Care for the Management of our Farms, and have no Naibs with whom to entruſt the Charge of our Affairs during our Abſence: Beſides, what Reſpect or Attention will be paid to the Deputy, when the People ſee the Principal ſeized in this Manner, like a Robber, and carried off to a Place from whence, it is probable, he may never return?

The Zemindars and Ryots are at all Times glad of any Pretext to evade the Diſcharge of their Rents; and ſome Conſequence and Authority is abſolutely neceſſary, to enable a Farmer to make his Collections; but when he is liable, on any trifling Complaints, to be treated in this ignominious Manner, what Influence will remain to him? or who will be daring enough, under this Predicament, to exerciſe any Power to enforce the Collections? And again, what Mahajur, or Banker, will now venture to become Security for a Farmer, ſeeing he is thereby liable to be ſummoned to Calcutta by the Engliſh Court? Or indeed, how can he venture either to advance Money, or hold any Kind of Connexion with him, whilſt it is not in his Power clearly to underſtand and determine, whether this late ſubjecting Order relates to Securities only, or will equally involve him who has any other Dealings with a Farmer of Lands? The Ryots too will now either hold back their Rents, and ſo evade the Payment; or the Farmer, driven to the neceſſary Uſe of compulſive Meaſures, is, by a ſingle Complaint, laid open to the Loſs of his Honour, Fortune, and Credit.

Suppoſing, however, the Ryot's Complaint proves unjuſt, and the Farmer ſtands acquitted of any criminal Conduct, his Caſe is equally deplorable; he finds himſelf turned forth from Priſon, at a vaſt Diſtance from his Home and Friends, his Credit loſt, and the Farm, which was perhaps his ſole Dependance, ruined, or gone into other Hands: And on his Return, after enduring a Thouſand Hardſhips, who will make good the Loſſes he has ſuſtained? He ſtill finds himſelf anſwerable for the Arrears of the Revenue for which he had engaged, and for which no Pleas of what he had thus ſuffered, would be heard in Mitigation.

It is now Four Years that we have heard, that, by the Orders from Europe, all Engliſhmen and their Servants were amenable to this new Court; but we never till now underſtood, that Perſons, who had no other Connection with the Company than holding a Farm, were alſo brought under its Juriſdiction; or that they had any thing elſe to conſider, beſides the Payment of the Money agreed for, as in a Matter of Trade, which it reſembles.

We do not know whether this Order of the Court is conformable to the Regulations from Europe, or not; but in rendering us miſerable, it obliges us to call for your Protection againſt it; and if that cannot be afforded us, that we may be allowed to relinquiſh our Farms, that we may retire, with our Families, to ſome other Country.

Hitherto we lived in Peace and Happineſs, under the Shadow of the Company's Adminiſtration.—The Regulations by which the Adauluts were conducted, were plain and eaſy, ſuitable to our Underſtandings, and we chearfully obeyed their Deciſions;—but to what Purpoſe do we obey them, if they do not, in Return, afford us their Protection, and Cauſes are again tried, and otherwiſe decreed, in another Court at Calcutta, to which we are ſummoned? Nay, we are even rendered liable to be puniſhed there, for what we have received, or done, in obedience to the Decrees of the Adaulut here.—If every Matter is to be again tried in the Engliſh Court at Calcutta, the Adaulut here, ſo far from being the Means of Redreſs, becomes a Grievance and Vexation, as it ſubjects us to double Attendance, and a double Trial.—In this Caſe, to what End ſhould it be continued? Better, were it totally aboliſhed.

If in the Courſe of this Petition, we have urged any thing wrong and improperly, forgive and pity us.—Expreſſions are not weighed in a State of Anguiſh; and we write like thoſe who feel the Wound, but know not the Hand that ſtrikes.

We requeſt that this Petition may be forwarded to the Governor General and the Gentlemen of the Council of Calcutta; and you, who are acquainted with all that regards our Situations, will yourſelves, in Kindneſs to us, repreſent what the Occaſion requires, ſo that either the Authority of the Court of Calcutta may be removed from us, or our Leaſes diſſolved, and we receive what Sums we have expended in the Improvement of the Lands we rented.

Patna, 11th February 1779.

A true Copy.

(Signed)
L. Crus. Laplant,
Secretary.

PATNA APPENDIX, N° 15.

Memorandum of the Subſtance of the Objections ſtated by the Plaintiff's Counſel, againſt the Notices of Juſtifications given in by the Defendants.

IT was premiſed, that although the ſame Nicety may not be required in a Notice of Juſtification as in ſpecial Pleadings, yet it is neceſſary that it contains ſuch ſufficient Information, that the Plaintiff, knowing the Grounds on which the other Party founds his Defence, may come prepared to oppoſe it.

1ſt. Objection.—That it is not ſtated, that the Preſident and Council had any Right to eſtabliſh Courts of Juſtice.

2d. That the Time when ſuch Courts were eſtabliſhed, is not clearly pointed out, nor even ſaid whether before or after the Court of Dewannee; the Notice ſtates, that the Preſident and Council *eſtabliſhed* the Courts *before and at* the Time of paſſing the late Act, which is Nonſenſe, and impoſſible. If it was done *before*, it could not be done *at*, and vice verſa.

3d. That although it be admitted, that they *had* the Power to eſtabliſh, it is not ſaid that they *did* eſtabliſh Courts of Juſtice at Patna, but only that they nominated and appointed Members.

4th. That it is not ſet out how many Members the Court conſiſted of, only ſaid a Preſident and divers Members.

5th. That it is not ſtated who were the original Members of the Council of Patna.

6th. That it is not ſtated by what Proceſs the Judgment was to be enforced, whether in *Perſonam*, or in *Rem*.

7th. That the Judgment is not ſet forth with ſufficient Preciſion.—It was neceſſary, to enable the Plaintiff to ſearch and call for the Records, to have mentioned the Dates of the Commencement of the Action, and of the Judgment; both would have been required in ſpecial Pleading.

8th, and laſt. That it appears on the Face of the Notice, that the Proceedings were illegal. It is ſet forth, that the Preſident and Council had nominated and appointed certain Members to ſit as a Court, and to hear and determine Actions and Suits; but it is ſtated, not that they heard the Action and Suit in the preſent Inſtance, but that they referred it to the Cauzee and Muftees (the Defendants) who in fact tried the Cauſe, and delivered in a Report to the Court, who thereupon gave Judgment; and it was evident theſe Members, poſſeſſing only a delegated Authority to try Cauſes, could not delegate it to others, becauſe it is an allowed Maxim of the Law of England, that *Delegatus non poteſt Delegare.* An additional Objection was ſtated, that the whole Counts laid in the Plaint were not covered by the Juſtification — turning out of Houſe, Aſſault and Battery, Impriſonment, &c. were not mentioned in the Notice.

PATNA APPENDIX, N° 16.

Chief Juſtice's Opinion on the Juſtification of Defendants.

THE Queſtion was, Whether the Defendants ſhould be allowed to go into their Juſtification, or or not? No Diſtinction was made between the Juſtification of Behader Beg and that of the other Defendants, though they differ very materially; but it will be neceſſary for me, in the Delivery of my Opinion, to diſtinguiſh them, becauſe there is one of the Objections, which, though ſtrongly applicable to the Juſtification of the Cauzee and Muftees, doth not in the leaſt affect that of Behader Beg;—The laſt Objection is, what we think the moſt material;—I ſhall give no poſitive Opinion on the others, yet I will not entirely paſs them over in Silence.

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2d Objection. Not ſtated when the Court was eſtabliſhed, that it might be known, whether Defendants juſtified under the Dewannee, or the Charter of the Company. The Opinion of the Court has on a former Occaſion been given, that this is a Matter of ſimple Curioſity.—Whatever they were before the Act of Parliament, they have now their Legality from the Act.

3d and 4th Objections. They are clerical Miſtakes; and though, as Mr. Tilghman ſays, they ought to be ſtated with the utmoſt Preciſion, yet they do not ſo affect the general Context of the Notice, that any Man of ordinary Underſtanding, reading the Notice, would not clearly underſtand every material Point meant to be juſtified.

5th Objection. I do not ſee what Utility there would have been, in ſtating, who were the original Members of the Preſident and Council at Patna. It is ſtated, if even that be neceſſary, who were the Chief and Council at the Time of this Tranſaction.

6th Objection. I can ſee no Neceſſity, having aſſerted, that they proceeded duly, and likewiſe having ſet forth, how they proceeded in this particular Caſe, that they ſhould ſet forth, whether their Judgment ſhould be enforced *in Perſonam*, *Rem*, or both.

7th Objection appeared to me to have Weight with it, until it received, what I think the true Anſwer to it, from Mr. Lawrence.—If in Point of Fact, there could be any Reaſon to imagine, that the Plaintiff would be under Difficulties to find the Judgment, if ſuch Judgment exiſts, on account of ſuch Notice not ſetting out the Day of commencing the Action, and the Day of Judgment, I ſhould ſtill have thought it a material Objection; but the Plaintiff himſelf knows the Time when theſe Tranſactions paſſed; and Mr. Lawrence rightly obſerves, the Notice, as it muſt do, applies the Whole of the ſuppoſed legal Proceedings to the Treſpaſſes and Time laid in the Counts of the Plaint; ſo that the Plaintiff certainly did know at what Time the Proceedings were had, and the Judgment given. Thus I have ſpoken to the Objections which go to both Juſtifications.

The 8th Objection goes only to the Juſtification of the Three laſt Defendants; ſo that if there be no other Objection to the Notice of Behader Beg, I ſhould be of Opinion, that he might enter into his Juſtification.

The 8th is the Objection on which the Court give their Judgment: As to the Notice of Juſtification of the other Defendants, the Court entirely agree.—The Objection is, that, as ſtated by Mr. Tilghman, it appears, from their own Juſtification, that the Proceedings were unwarrantable and illegal.—It wants no more than to ſtate the Objection to ſee the Force of it: The Notice ſtates (I will put it as the Parties themſelves meant it ſhould be) That at the Time of the Act of Parliament, the Preſident and Council of Fort William, in exerciſing, ordering, and managing, the Territorial Acquiſitions of the Company, had eſtabliſhed certain Courts, Councils, or Committees, within the ſaid Kingdoms or Provinces; to which ſaid Courts, Councils, or Committees, the Adminiſtration of Juſtice within the ſaid Kingdoms was, by the ſaid Preſident and Council, committed and entruſted; and at the ſame Time in Patna, in Bahar, they had eſtabliſhed a certain Provincial Council or Committee, conſiſting of a Preſident or Chief, and divers other Members, with full Power and Authority to be, ſit, and act as a Court of Juſtice, and to hear and determine Diſputes of Property, Cauſes of Inheritance, and other Civil Actions and Suits, between Muſſulman or Muſſulmen, ariſing within the ſaid Kingdom; ſubject to an Appeal to the Preſident and Council of Fort William, and no other; and to enforce their Judgments; that where the Parties were Mahomedans, the Suits uſed to be determined according to the Mahomedan Law; and as often as ſuch Suits or Actions aroſe, and were brought and commenced in the ſaid Court, the ſame were, and uſed to be referred to certain known Officers, who were verſed in the Mahomedan Law, called by the Name of Cauzee and Muftees; and when ſuch Reference was

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7th Objection appeared to me to have Weight with it, until it received, what I think the true Anſwer to it, from Mr. Lawrence.—If in Point of Fact, there could be any Reaſon to imagine, that the Plaintiff would be under Difficulties to find the Judgment, if ſuch Judgment exiſts, on account of ſuch Notice not ſetting out the Day of commencing the Action, and the Day of Judgment, I ſhould ſtill have thought it a material Objection; but the Plaintiff himſelf knows the Time when theſe Tranſactions paſſed; and Mr. Lawrence rightly obſerves, the Notice, as it muſt do, applies the Whole of the ſuppoſed legal Proceedings to the Treſpaſſes and Time laid in the Counts of the Plaint; ſo that the Plaintiff certainly did know at what Time the Proceedings were had, and the Judgment given. Thus I have ſpoken to the Objections which go to both Juſtifications.

The 8th Objection goes only to the Juſtification of the Three laſt Defendants; ſo that if there be no other Objection to the Notice of Behader Beg, I ſhould be of Opinion, that he might enter into his Juſtification.

The 8th is the Objection on which the Court give their Judgment: As to the Notice of Juſtification of the other Defendants, the Court entirely agree.—The Objection is, that, as ſtated by Mr. Tilghman, it appears, from their own Juſtification, that the Proceedings were unwarrantable and illegal.—It wants no more than to ſtate the Objection to ſee the Force of it: The Notice ſtates (I will put it as the Parties themſelves meant it ſhould be) That at the Time of the Act of Parliament, the Preſident and Council of Fort William, in exerciſing, ordering, and managing, the Territorial Acquiſitions of the Company, had eſtabliſhed certain Courts, Councils, or Committees, within the ſaid Kingdoms or Provinces; to which ſaid Courts, Councils, or Committees, the Adminiſtration of Juſtice within the ſaid Kingdoms was, by the ſaid Preſident and Council, committed and entruſted; and at the ſame Time in Patna, in Bahar, they had eſtabliſhed a certain Provincial Council or Committee, conſiſting of a Preſident or Chief, and divers other Members, with full Power and Authority to be, ſit, and act as a Court of Juſtice, and to hear and determine Diſputes of Property, Cauſes of Inheritance, and other Civil Actions and Suits, between Muſſulman or Muſſulmen, ariſing within the ſaid Kingdom; ſubject to an Appeal to the Preſident and Council of Fort William, and no other; and to enforce their Judgments; that where the Parties were Mahomedans, the Suits uſed to be determined according to the Mahomedan Law; and as often as ſuch Suits or Actions aroſe, and were brought and commenced in the ſaid Court, the ſame were, and uſed to be referred to certain known Officers, who were verſed in the Mahomedan Law, called by the Name of Cauzee and Muftees; and when ſuch Reference was made, before the Act, the Cauzee and Muftees examined, and were uſed to examine, the Action or Suit ſo referred to them; and having heard the Parties, or their Vakeels or Attornies, and the Evidence on both Sides, delivered in, and were uſed to deliver in, to the ſaid Court, a Report upon the ſaid Action or Suits ſo referred, agreeable to the Muſſulman or Mahomedan Law, and thereupon the ſaid Council gave and paſſed a Decree or Judgment upon the ſaid Action or Suit.

The Notice then ſtates the Act of Parliament creating the Governor General and Council, and conveying the ſame Powers to them as to the former Preſident and Council and Select Committee; that the Governor General and Council, ſince the Act, have committed and entruſted, and continued to commit and entruſt, the Adminiſtration of Juſtice within the Kingdoms of Bahar, to the ſaid Provincial Council or Committee in Manner aforeſaid; that at and ſince the Act of Parliament, the Cauzees and Muftees have exerciſed, and been ſuffered to exerciſe by the Governor General and Council, the Powers and Duties before-mentioned, as well under the Controul of the Council, as in virtue of their Offices; that at the Time of the Treſpaſſes, the Provincial Council appointed by the Governor General and Council were uſed to ſit as a Court of Juſtice, with Powers of trying and determining Civil Actions and Suits; that the Defendants were Cauzee and Muftees attending the Court for the Purpoſe aforeſaid; that the Cauſe was inſtituted between the Plaintiff and Defendant, being Muſſulmen, before the Provincial Council, ſitting as a Court, and that the ſaid Cauſe was referred to the Defendants, being Cauzee and Muftees as aforeſaid; that the ſaid Cauſe was proceeded unto Hearing and Judgment; and for the Execution of the Judgment, Precepts were iſſued, and the Judgment executed accordingly: It therefore appears, that there is, and upon the Face of the Defendant's own Notice, that the Proceedings of this Court are not authorized by the Powers committed to them, either by the Preſident and Council, before the Act of Parliament, or by the Governor General and Council, ſince the Power to adminiſter Juſtice, and for that Purpoſe to hear and determine Diſputes of Property, Cauſes of Inheritance, and other Civil Actions and Suits, between Muſſulman and Muſſulmen, was originally, and is now finally intruſted to the Preſident or Chief, and divers Members of the Council of Patna, and to them only: The whole Power of the Adminiſtration of Juſtice, as ſtated in the Notice to be in the Council of Patna, as in Cauſes between Muſſulman and Muſſulmen. And the Juſtification goes on to ſtate, that whenever ſuch Cauſes are inſtituted, in which they only appear to have Juriſdiction, they do not, according to the Truſt repoſed in them, hear, try, and determine the Suit and Action, but immediately refer—what? not any collateral Circumſtances ariſing in the Cauſe, but the very Cauſe and Suit itſelf, to the Cauzee and Muftees, who are the Perſons entruſted by them, and not by the Governor General and Council; that theſe Cauzees and Muftees, not the Chief and Council, examine the Action and Suit ſo referred, hear the Parties or their Vakeels, and the Evidence on both Sides, and then deliver in their Report; and the Report being delivered in, the Chief and Council, who indeed have ſat, as is ſtated, as a Court to receive the Suit, inſtantly proceed to give Judgment, according to the Report. What Act then is done, by theſe Adminiſtrators of Juſtice, inſtantly on the Suit being commenced, they turn it over to others to do what they themſelves ought to have done; and upon Receipt of the Report, they confirm it by their Judgment or Decree. What judicial Act have they done? What Point have they to exerciſe their Judgment upon?—It has been ſaid by the other Gentlemen, that enough has remained in them to make them judicial Officers: Is that ſufficient for thoſe who have the whole Adminiſtration of Juſtice, to paſs out of them their whole Power, but juſt ſufficient to have it ſaid, they may be called judicial Officers? But the Fact is not true; the only Thing contended to be left in them was, to determine, whether the Parties were Muſſulmen; that was all that was contended to be left to the Judges.—When I ſay to be left to the Judges, I allude to the Juſtification in point of Fact. On the Firſt Inſtitution of the Cauſe, it is referred; and are they the proper Perſons to try who are, or who are not Muſſulmen? Is that the only Point left to be tried by Judges, who are to be aſſiſted by Cauzee and Muftees? Whether they were properly initiated into their own Religion, ſeems as much a Point neceſſary to the Determination of Cauzees and Molavies, as the common Matters of Fact which ariſe in a Cauſe. Is the Prothonotary of this Court the Judge of the Court? he receives the Plaint, he, after the Determination of the Court, enters the Judgments on Record; he authenticates them by his Signature; he does indeed call in to his Aſſiſtance the Judges who ſit over him for the Purpoſe of the immaterial Incidents of hearing, trying, and determining: What is there upon the Notice that is done by the Provincial Council, that is not done by the Prothonotary?—To give a Colour to the Proceeding, it is ſtated, that all Cauſes ariſing between Muſſulman and Muſſulmen, are in their Court determined by the Mahomedan Law; and for that Purpoſe the Cauzee and Molavies are, and have been attended to determine Matters of Fact. Engliſh Gentlemen converſant in the Language of the Country, are as competent as Cauzee and Muftees can be: And I have heard a decided Superiority over this Court attributed to the Provincial Councils, becauſe, in Matters ariſing before them, Engliſh Gentlemen, converſant in the Language, examined the Witneſſes, and were not obliged to do it through an Interpreter. I wiſh there had been that Superiority; but I now find that the Examination of Witneſſes, and the Examination of every Fact whatſoever, regarding a Cauſe, are entruſted to Black Officers. If it be, as is contended, though out of the Juſtification, and inconſiſtent with it, that the Report made by the Black Cauzee may be objected to, What is the Effect of the Objection, as the Gentlemen themſelves have ſaid, that it be referred again back to the ſame Judges? What is to be done, if they continue of the ſame Opinion, and do not alter it?—Are they to object again? — though it be objected to, ſtill, according to the Notice, it muſt be confirmed. —

PATNA APPENDIX, Nº 18.

Matters of Law ariſing upon the Facts may properly be adviſed upon by the different Profeſſions of the Law; which, to be decided upon, there never can be a Reaſon, that the Facts themſelves ſhould be referred, Exfacto jus oritur. Do the Provincial Council paſs their Decree according to the Report made by the Cauzee, or do they not? Muſt they uniformly conform?—If they muſt, they are mere miniſterial Officers: If they may give a Judgment on the Report contrary to the Opinions of the Molavies and Cauzees, they take upon themſelves to do that for which they want only the Aſſiſtance of the Cauzees; for then they judge not upon the Facts, but upon the Law ariſing from them; for the Facts are ſtated to them by the Cauzees. It may happen, and frequently does happen, that where Parties that are Objects of our Juriſdiction are both Muſſulmen; we likewiſe are of Opinion, that Cauſes of Property, where the Queſtion depends on the Muſſulman Law, ſhould be determined by the Rules of that Law; for which Purpoſe we have Molavies attending upon us, to whom we refer ſuch Queſtions, and their Opinions become Guides to our Judgments. But would it be endured by the King and Parliament of Great Britain, that we, to whom they have delegated the Adminiſtation of Juſtice, ſhould, when ſuch a Cauſe was inſtituted in the Court, inſtantly refer it to thoſe Officers of the Court, with all its dependant Incidents and Emergencies, and in the End only add our Authority, not only to their Opinion, but to what they pleaſe to ſtate to be Facts in the Cauſe? —Yet, poſſibly, we might do it with more Propriety. The Molavies attendant on us, are Officers of the Court, are ſworn Officers of the Court; they have Salaries, and if they behave corruptly, would be liable to Diſmiſſion. I do not know that there is any one Sanction under which the Cauzee and Muftees act; they are ſtated to be attendant on the Court; ſo are Sheriffs Officers; in ſome Part of their Duty, they are in the Nature of Sheriffs Officers. By your own ſhewing, here are Judges dictating what Proceſs they ſhall execute: Judges or miniſterial Officers, call them which you will, they are Perſons who dictate the Proceſs which ſhould be iſſued to themſelves for themſelves to execute. The Abſurdities and Inconſiſtencies ariſe in my Mind as I go on, ſo that I hardly know where to ſtop.—But I will put one more Inſtance: Every Court has, or ſhould have, the Correction of its own Officers.—If One of their Cauzees or Muftees abuſe the Proceſs directed to him, How is he to be puniſhed? It would be a Cauſe between Muſſulman and Muſſulman, if the Proceſs be directed to Muſſulmen, whether executed duly or no, may depend on the Muſſulman Law.—What is to be done with that Suit? Why, it is by your own Conſtruction to be referred to the Cauzee and Muftees; they are to enquire, determine, make their Report, and the Council are to confirm it, and this Abſurdity muſt always be where the ſame Perſons are to be Judges and Miniſterial Officers.—I am exceeding glad, by looking into the Conſtitution of the Provincial Courts of Juſtice, to ſee that this Deciſion does not at all affect their Authority; it tends to the contrary; it will oblige them to execute that Authority which they have waved, as I ſhall always believe till I am convinced to the contrary, that Principles of Juſtice are deeper rooted in the Minds of my own Countrymen than in the corrupt Natives of this Country, and eſpecially than ſuch Natives as are generally attendant as Officers on Courts of Juſtice. I truſt that this Deciſion, by reſtoring to the Provincial Officers what I think to be their legal Authority, will ſtrengthen the Power of Government, give Vigour to the Adminiſtration of Juſtice, and add Security and Stability of Property in this Country; and create, what is highly wanted in the Natives of this Country, a Confidence in the Provincial Adminiſtration of Juſtice.—Thoſe that entertain the higheſt Opinion and the greateſt Confidence in the Provincial Councils, cannot have the ſame Confidence in their Delegates.—I ſaid, that the Conſtitution of theſe Courts was not affected by this Judgment, by the Conſtitution in the Adminiſtration of civil Juſtice, ſubject to an Appeal; and for that Purpoſe, to try, hear, and determine, is veſted in the Chief and Provincial Council. The Court by their Opinion affirm theſe Powers, they only reprobate the Practice by which they decline to exerciſe that Power. The Court ſays, they muſt try, hear, and determine themſelves.

It is hardly neceſſary to obſerve, that it is ſtated in the Notice that this Practice has been by the Sufferance of the Governor General and Council, and of the Preſidents and Council before them. What they have barely ſuffered receives no Sanction from the Act of Parliament; it is ſufficient, that it is no Part of the original Conſtitution. This would make it unneceſſary to enter upon the Subject, very ably inſiſted upon by Mr. Tilghman, whether *Delegatus poteſt Delegare?* But, upon that Point, were it neceſſary, I have no Heſitation to ſay, that I think the whole and every Part of Mr. Tilghman's Argument is founded in Law, natural Juſtice, and common Senſe; I mean ſuch Parts as apply to this Part of it as a Judicial Officer.—The Diſtinction between Judicial and Miniſterial Offices is not only founded on Common Senſe, but in poſitive Law: The exerciſing of a Judicial Office, properly calls forth the Exerciſe of numerous Qualities; Learning, Impartiality, a Mind capable of ſeparating Ideas, Integrity; all which are merely Perſonal. I am entruſted to adminiſter Juſtice from the Confidence which His Majeſty has in me: If I devolve it to another, can His Majeſty have the ſame Confidence in him? there may be a Confidence between me and the other, but there can be no Confidence between my original Conſtitutor and the Perſon whom I conſtitute. Miniſterial Officers, or Perſons who are to do indifferent Acts, which may as well be done by one Man as by another, to the Party committing that Truſt, it is indifferent by whom they are done, ſo they be done; ſo that common Senſe as well as Law aſſents to their being done by Deputy. For a Propoſition ſo clear, I did not wiſh to cite Authorities, but my Brother Chambers, whoſe Learning always gives me the greateſt Aſſiſtance, has furniſhed me with ſome; which being in Point, will ſtate a Judge or Juſtice on Record cannot make a Deputy, contra of the Sheriff who is an Officer.

Brooke's

PATNA APPENDIX, Nº 16.

Brooke's Abridgment, Title, Judges Place to.—Here is another Teſt of it, for Exceptio probat Regulum.

The Juſtices at Eyre could not at Common Law, but now they may by Statute I. Roll. 274; ſo ſome Stewards of Manors, but that is always by Preſcription, which ſuppoſes it, or by Act of Parliament. But in this Caſe, as I before obſerved, it is hardly neceſſary to obſerve, becauſe there is no Power ſet forth in the Juſtification, either directly or indirectly, to appoint a Deputy.—I chiefly fling out this for this Purpoſe, that no Idea may be any where entertained, that a legal Authority to appoint a Deputy, can, by any Power exiſting in this Country, be given to thoſe to whom the general Adminiſtration of Juſtice is committed. It has been ſaid, that this was Error, but it appears to be otherwiſe, and if it is an Error, if what is ſaid is true, it is ſuch an Error as is not likely to be corrected; it is not an Error, becauſe the whole is Coram non Judice; it is not likely to be corrected, becauſe it is ſtated to be done by Sufferance of thoſe to whom the only Appeal is given: What Remedy then can be given, but by this Court? The Appeal indeed itſelf, by this Proceeding, becomes nugatory, except more Confidence is to be placed in Black Officers than I am willing, and know ought, to be attributed to them. It is not the Cauſe, but the Report ſtated and fabricated by the Cauzees and Molavies, that is to be appealed from. A Court of Appeal ought only to judge of the Matter before the inferior Court; they cannot reviſe or correct the Judgment of the inferior Court, except they have identically the ſame Grounds before them that the inferior Court had when they gave Judgment, for upon that only the Judgment of the inferior Court was originally given; they have then nothing brought before them but the Statement of Facts, and the Opinion of the Cauzee and Muftees; and who can doubt but that they will mould the Facts to their Opinion, if they do not give their Opinion according to the real Facts?—I am not now conſidering legal Judges, or arraigning the Proceedings of a Court of Juſtice; I am commenting upon the Acts of Perſons made to uſurp the Seat of Judgment, and on Proceedings abſolutely Coram non Judice.—The Court are of Opinion that the Eighth Objection is fatal to the Juſtification inſiſted upon by the Defendants, Cauzee Sahdee, Muftee Barractulah, and Muftee Gholaum Mucdoom; for the Facts ſtated in the Notice being proved, will not amount to a Juſtification; and this upon no nice Objection to the Notice, but becauſe the Defendants themſelves ſtate what they have done, to have been both unwarrantable and done illegally. The Juſtification of Behader Beg is entirely without this Objection:—He has not ſtated, that the Cauſe was referred to the Cauzees and Muftees; but has ſimply ſaid, that it was duly proceeded on: So that upon the Face of the Notice, as far as this Objection goes, I ſee no Reaſon that he ſhould not be admitted to his Juſtification; becauſe, if duly proceeded on, he was juſtified, which is Matter of Evidence. I ſay, if the Facts are proved, that it was duly proceeded in.—But there is another Objection, which applied with equal Force to both Juſtifications; and that is, the Whole of the Treſpaſſes mentioned in the ſeveral Counts are not covered by the Juſtification.—The Plaint conſiſts of Aſſault and Battery; Aſſault, Battery, and Impriſonment; Aſſault, Battery, and keeping from Food.—The Aſſault, Battery, Diſturbance, and Expulſion from the Houſe; entering and breaking the Houſe, and continuing therein down to the Time of the Plaint; taking away the Goods, &c. the Article of Impriſonment is deſerted, abſolutely and totally deſerted, there is no Juſtification for that; indeed I believe it would be very difficult for the Gentlemen to point out what Count they have juſtified: Have they juſtified any Aſſault and Battery; what is there mentioned of Battery? Have they juſtified any Impriſonment? Not a Word is ſaid of it.

The Court, therefore, are of Opinion, that the Defendants are not at Liberty to examine the Witneſſes called for the Purpoſe of Juſtification; though it will be Matter of Conſideration, whether they may not go into that Evidence for the Purpoſe of Mitigation. I meant to be ſhort, but I am led by Degrees to go into a greater Length, which I am no otherwiſe ſorry for, than that I fear the Opinion may appear deſultory, and in ſome Parts unconnected; as I have delivered it extempore, without having arranged it in my own Mind, and without the Aſſiſtance of any Writing or Memorandums whatever, and delivered brokenly, and by Way of Dictation, as I ſaw the Gentlemen round the Table were deſirous to take down what I ſaid.—This is contrary to my uſual Manner of ſpeaking, which is generally too quick. As to the Matter, I am leſs uneaſy, though the Subject has called ſo much from me, as my Brothers ſitting by me have attended to what I have ſaid; and with regard to the Two laſt Objections, authorize me to ſay, that they agree to what I have delivered as the Opinion of the Court. With regard to the other Points, I am to be underſtood that the Court has given no Opinion. We do not know that there is any Difference of Opinion; but I deliver in the Opinion of the Court only on the Two laſt Objections; but the Defendants inſiſting on going into their Juſtification for the Purpoſe of an Appeal, they are at Liberty ſo to do.

PATNA APPENDIX, Nº 17.

Judgment in the Cauſe of
Naderah Begum,
Vs.
Behader Beg, and
others.

In the Supreme Court of Judicature at Fort William, in Bengal.

Naderah Begum, Vs. Behader Beg, Cauzee Sahdee, Muftee Barractoolah, and Muftee Gullaum Mukdoom.

The Judgment of the Court delivered by the Chief Juſtice on the laſt Day of the Firſt Term, One thouſand Seven hundred and Seventy-nine.

THIS Cauſe having been defended by the Company with great Anxiety, for their Satisfaction, though the Evidence is voluminous, I will ſtrictly diſcuſs every Queſtion made in the Courſe of the Trial. I did not intend to deliver the Opinion of the Court this Term, but the Seizure of the Witneſſes by the Phouſdarry Court at Muxadabad, has, in our Judgments, made it neceſſary, that the Government may be apprized with what Juſtice they are proſecuted, and my Brothers have deſired it; I am therefore compelled to deliver it from looſe deſultory Notes, which I have not only not had Leiſure to digeſt under proper Heads, but even not to read ſince I minuted them on Paper, juſt as they occurred: I ſhall therefore (as many Parts of the Evidence muſt be put in different Points of View for different Purpoſes) neceſſarily fall into tedious Repetitions, both of the Evidence and the Obſervations on it, which, if I had had ſufficient Time, I would have endeavoured to avoid.

This is an Action of Treſpaſs, vi et armis. The Plaint contains Five Counts.

1ſt Count is for a Common Aſſault and Battery.

2d. For an Aſſault, Battery, and Impriſonment, with a Continuendo from the 31ſt January to the 6th May 1777.

3d. For an Aſſault, Battery, and Impriſonment, for ſeizing her Houſe, ſearching her indecently, turning her into the Streets, placing Hircarrahs and Sepoys as Guards over her, in the Monument of Shah Auzum, and depriving her of Suſtenance, ſo that ſhe muſt have died, but for the Charity of Faqueers; with a Continuendo of the Treſpaſſes on different Days between the 31ſt January to the 1ſt Auguſt 1777.

4th. For breaking and entering, driving out, and removing her from, and keeping her out of Poſſeſſion of, her Dwelling Houſe, from the 1ſt January 1777 to the Time of filing the Plaint.

5th. For breaking and entering the Houſe, and continuing there without the Plaintiff's Conſent; and the Monies, Goods, and Chattels of the Plaintiff then found (enumerating them to a very great Amount) ſeizing, taking, and carrying away. This is laid to the Plaintiff's Damage of Sicca Rupees Six hundred Thouſand. The Three laſt Defendants plead Not Guilty: An Iſſue is thereon joined. Behader Beg pleads to the Juriſdiction, thereby putting a Negative on every Circumſtance neceſſary to give the Court Cognizance of the Cauſe, and at the ſame Time pleads Not Guilty; likewiſe in the Replication to the laſt Plea, iſſue is joined, and this in the Replication to the Plea to the Juriſdiction. The Plaintiff aſſerts, that Behader Beg, at the Time of the Cauſe of and of bringing this Action, was directly or indirectly in the Service of, or employed by the Eaſt India Company, or directly or indirectly in the Service, &c. of ſome other Britiſh Subject.

The Rejoinder denies what is aſſerted in the Replication; and in the Surrejoinder, Iſſue is found thereon. The Court have given Judgment on this Plea, that Behader Beg is ſubject to the Juriſdiction of the Court, becauſe it appeared on his own Evidence, he was in the Employ of the Company. Beſides the Pleadings in the Cauſe, the Defendants have given Notice of Special Matter, which they had obtained Liberty to give in Evidence, on the Plea of Not Guilty, as a Juſtification. In this Behader ſays, that in the Matters complained of, he only acted as a Suitor; and the other Defendants ſay, they acted only as Miniſters and Officers of a Court of Juſtice. By the Rules of our Court, theſe Pleadings vary from what muſt have been by the Courſe of Common Law in England. We thought ourſelves authorized, by the particular Circumſtances attending the Country in which we are deputed to adminiſter Juſtice, to make theſe Variations. In England, where the whole Body of the People are ſubject to the King's Laws, and Pleas to the Juriſdiction are Claims of Exemption from the Juriſdiction of His Majeſty's principal Courts of Record in Weſtminſter Hall, the Parties pleading there, plead them, at their Peril. They muſt plead them ſingly, and cannot join to them another Plea by which they anſwer to the Action, becauſe (ſo little favoured are thoſe Pleas, being Pleas that decline the anſwering to the Right in the King's Courts of ordinary Juriſdiction) the very Undertaking to defend the Action is held to be a Submiſſion to the Juriſdiction of the Court. But in this Country, the groſs Body of the People are not, and only certain Perſons anſwering particular Deſcriptions, are Objects of the King's Law, or of the Juriſdiction of this Court: As therefore there are other Laws and other Courts (ſuch as they are) to whom the Bulk of the Natives are amenable, and we, not being anxious to extend our Juriſdiction, have, though we incur much Trouble by it) ſuffered theſe Pleas to be pleaded as freely as any others, without any Peril to the Parties, and at the ſame Time receive their Pleas in Bar, without taking Advantage of any Concluſion in Favour of our own Juriſdiction. And to give this Advantage to the Defendants, is the Object of a particular Rule.

The Pleader who put in this Plea to the Juriſdiction, purſuing, without attending to the Reaſon of it, the Form made uſe of when what are called Double Pleas are pleaded in England, has committed a ſtrange Miſtake. It is ſtated on this Record, to be pleaded in conſequence of Leave firſt obtained from the Court, in purſuance of the Statute in that Caſe made and provided. The Statute alluded to, does not authorize the Plea, by the Juriſdiction being pleaded with Pleas in Bar, and can have no Relation to this Matter; and it is by our Rule, and by our Rule only they can be thus pleaded. For the Eaſe and Conveniency of Defendants, eſpecially of ſuch who act under the Rights and Authorities of the Eaſt India Company, a Rule has been framed, by which the Special Matter is permitted to be given in Evidence on the General Iſſue; the Reaſon for which I fully entered into in a former Cauſe. The Plaintiff in verifying the Facts laid in the Plaints, which the Plea of Not Guilty compelled her to prove the following Caſe.

Shaw Bauz Beg Khan, a Native of Kaubul, many Years ſince came into this Country; by his Induſtry he acquired a very conſiderable Fortune under Mr. Watts, formerly a Member of the Council here; and by his Valour and Military Merit, recommended himſelf ſo much to Lord Clive, that his Lordſhip procured for him, from the King Shaw Allum, a Command in the Army, and the Rank and Title of an Omrah of the Empire. He ſettled at Patna, lived up to the Station to which he had been advanced; he married the preſent Plaintiff, who was herſelf of a good Family, and was Daughter of   She was his only Wife, and was entitled to the honourable Appellation of Begum. He ſettled on her the whole of his Eſtate, both real and perſonal, except a few Legacies, by Two Deeds, one called an Hebanamah, and the other an Ikrauraum. He died at Patna on the 28th of Shawaul, anſwering to the 10th December 1776, leaving very great Property behind him, and his Widow in Poſſeſſion of it.

On the Third Day after the Death of Mahomedans, certain Religious Ceremonies are ſolemnized in honour of the Deceaſed; and on that Day the Perſons entitled to the Inheritances are expected to make their Claims. Accordingly, on the 13th Day of December, the Third Day after the Deceaſe of Shaw Bauz Beg Khan, ſuch of his Relations who were at Patna met, the Women in one Apartment, the Men in another. It was then declared, that the Deceaſed had given his Eſtate to the Widow; and the Muſnud, a Cuſhion of State, which is only maintained in principal Families, and on which the Perſon who is to ſucceed to the Eſtate of a Male on that Day takes his Seat, was kept vacant, becauſe the Widow could not; for Mahomedan Women of any Rank, as we well know, cannot appear before Men. On this Day, Behader Beg made no Claim, either to the Eſtate, or to his Seat on the Muſnud. After the Interment of the Deceaſed, a Diſpute aroſe between Behader Beg, one of the Defendants, who is a Son of a Brother of Shawbaz Khan, and the Plaintiff, about removing the Body to Kaubul, which by the Means of Mr. Law, was amicably ſettled in Favour of the Plaintiff, who was bid to be quiet and compleat the   Days, which are, according to the Cuſtoms of the Mahomedans, dedicated by Widows to Mourning; but Behader Beg now ſet up a Claim to the Eſtate of the Deceaſed, began to frequent the Houſes of the Gentlemen of the Council, and was particularly patronized by Mr. Young. About Twenty-four Days after the Death of Shawbaz Khan, or about the Second or Third of January, before the Days of mourning were expired, Ten Peons and an Hircarrah of the Chief of Patna, came in the Evening, and ſurrounded the Plaintiff's Houſe, and would not ſuffer any Perſons to go in or out without Examination. They ſtopt the Nephew of the deceaſed, Coja Zekereah, who lived in her Family, and would not let him go until he obtained an Order for that Purpoſe from the Cauzee. They ſaid they were ſent by Cauzee Sahdi, in conſequence of an Order of Council, and that an Inventory was to be taken on the next Day. Accordingly, on the next Morning, or a few Mornings after, all the Defendants, except Muftee Baracktullah, in Company with Muftee Kurreem Ullah, who is not a Defendant, came to the Houſe. The Cauzee ſaid he had an Order of Council, and ſhewed a Paper, which he ſaid was that Order, to lock up and ſeal up the Doors of every Apartment in which there were Effects, and to take an Inventory; and that it would not be proper to diſobey the Orders of the Council. The Plaintiff being acquainted with this, remonſtrated againſt it, called for Protection from the King and the Company, and proteſted againſt their Proceedings; to this the Cauzee replied, the King and the Company are at a Diſtance, and that Mr. Law, and the other Gentlemen, were the Perſons the Natives muſt obey. Many Meſſages and much Altercation paſſed for the Space of Three Hours, in which ſometimes Threats, and ſometimes fair Words were made uſe of. At length, after ſhe had been told that ſhe had nothing to fear, and that no Injuſtice ſhould be done; that it would be better to open the Doors now, than to ſtay till the Sepoys came to open them, when ſhe would be affronted; that at preſent nothing would be done, but putting Seals on them; that the Cauzee was ſenſible all belonged to her, and ſhe ſhould have them, by the Advice of her Family to open the Doors, rather than receive an Affront. The Plaintiff acquieſced in their Terms: "You may put the Seals "for the preſent on the Doors, but I am the Owner of the Effects, and you have the Power in "your own Hands."

The Cauzee then deſired the Plaintiff to appoint a Vakeel on her Part, and pointed out to her Coja Zekereah as a proper Perſon. She poſitively refuſed to appoint any; but ſent her Seal, and told them, they might, if they pleaſed, appoint him.

Zekereah likewiſe refuſed to be appointed; but Gullaum Muckdoom wrote a Paper, put the Seal to it, and delivered it to the Cauzee; who kept both the Paper and the Seal. The Cauzee and Muftees, Gullaum Muckdoom, then ſealed up ſuch Apartments as were pointed out to them by Behader Beg, and went away. On the Firſt Day only Four or Five Rooms were locked up.

Three or Four Days afterwards all the Defendants came together, broke the Seals of the Doors, and went into the Houſe, and took an Inventory.

They ſent a Meſſage to the Plaintiff, acquainting her they wanted to examine the Apartment where ſhe was; her Anſwer was, that ſhe would rather loſe her Life, that they had already taken away her Houſe. When this Anſwer was delivered, the Defendants replied, that they only wanted to go in for a few Minutes; and the Meſſenger objected, becauſe the Plaintiff, and the Ladies with her, had no Place to retire to; the Cauzee threatened Force. She was then perſuaded, rather than expoſe her Perſon to leave the Apartment ſhe was in; the Cauzee then ſwore by the Khoran, he would only ſtay there a few Minutes to make a Search. As the Defendants went from Room to Room, the Plaintiff and her Attendants were obliged to fly before them to find out others, where they muſt be concealed from Sight by Purdahs. As the Defendants went through the Houſe, they ſealed and locked every Door after them, and in this Manner proceeded till every Room in the Houſe was locked up, and the Plaintiff and her Women obliged to quit it entirely, and take Shelter in an Outbuilding in a Garden compound on the Backſide of the Houſe.

The Place they were drove to was open to a common Buzar, and a Neceſſary with which the Entry communicated. When ſhe was thus expelled, the Cauzee, in the Hearing of the other Defendants, declared, that till the Matter was decided, ſhe ſhould not live in the Houſe. Here ſhe was even obliged to ſpend the reſt of the Day and the whole of the Night, the next Morning, until ſhe was ordered to leave the Houſe entirely. On the Morning of the next Day, the Wife of the Defendant Behader Beg and other Women, were introduced to the Plaintiff, and they inſiſted on ſearching her; after which the Cauzee ſent a Meſſage to the Plaintiff, that ſhe muſt leave the Houſe and take another, until it was determined who had a Right to the Eſtate. The Plaintiff obeyed; and in going out of her Houſe, her Palanquin was ſtopt by the Peons of the Cauzee; who attempted to ſearch her again; but ſhe was reſcued from this Outrage by a Perſon who drew his Scymetar, with a declared Reſolution to forfeit his Life rather than ſhe ſhould undergo this Indignity. Thus a Lady delicately brought up, and ever before treated with that ſtrict Decorum and Reſpect which is always obſerved to the Principal Woman in the Zenana; who, not only herſelf had not been ſubject to the Eyes of Men, but even her female Slave had been immured with ſuch Care, that from her Infancy ſhe had never been out of the Houſe, and was ſo ſecluded from common Intercourſe, that ſhe was a Stranger to the Name of the City in which the Houſe ſhe inhabited was ſituated.—A Lady ſhould at all Events be entitled to a Share of the Effects of her deceaſed Huſband, turned out into the public Streets and Buzars, without Bedding, and without Covering, and without a Friend.

Cojah Zekereah, the Son of a Siſter of Shawbaz Beg Khan, the Perſon whom the Cauzee thought proper to be the Vakeel of the Plaintiff, and the only Friend or Relation from whom, according to the Evidence in this Cauſe, the Plaintiff could look up to for Aſſiſtance, had already been put in Confinement on a Charge, real or pretended, of Forgery. Deprived of Friends, with all the Prejudices of her Religion and her Education, Sex and Rank, a total Stranger not only to the City, but to the World; ſtript of every Thing; ſhe had neither Ability or Knowledge neceſſary for providing for herſelf; ſhe therefore was reduced to the Neceſſity of ſeeking Relief from Charity; ſhe took Refuge in the Monument of Shah Azum; there ſhe expected at leaſt Food from the Humanity and Charity of the Faqueers that inhabit it, and from the Religious Veneration with which Places of this Kind inſpire Mahomedans; an Aſylum from Inſult and Violence. A charitable Faqueer gave her his Apartment; but as ſoon as ſhe got into it, was ſurrounded by Hircarrahs, who were planted to prevent the Faqueers exerting their Charity, by ſupplying the Plaintiff and her Attendants with the Neceſſaries of Life. In this Situation ſhe remained for Three Months. During this Time the Defendant Bahader Beg came with a Troop of common Women, picked out of the public Buzar; who clamorouſly demanded the Doors to be opened, that they might ſearch her; and threatened the pulling of her out by the Hair if ſhe made Reſiſtance, and would not execute a Kazenama, which is an Inſtrument in Nature of a Releaſe, by which ſhe was to declare, that nothing that had paſt had been done without her free Will and Conſent.

At this laſt Inſult the Begum was accuſed of Puſillanimity. Called on to ſacrifice her Life, rather than ſubmit to it, ſhe had when ſhe quitted her Houſe ſecured a Poniard, which ſhe had reſerved to the laſt Extremity.

Fortunately this Violence was deſiſted from. The Faqueers not paying Attention to the Hircarrahs, had furniſhed the Widow and her Women with ſuch Victuals as they ſubſiſted on, and other Neceſſaries. This Guard not being ſufficiently rigorous, the Hircarrahs who had been placed upon her for Three Months, were relieved by Twelve of the Company's Sepoys, and an Havildar, who were ſo ſtrict in preventing Suſtenance being conveyed to the Plaintiff, and her miſerable Attendants, that they ſubſiſted for Three Days only on flat Cakes of Bread, and other ſcanty Food, which the Faqueers could clandeſtinely convey through Drains, and ſuch Holes as they found in the Walls of the Apartment.

Though this Rigour was ſomewhat relaxed after Three Days, the Confinement did not. The Sepoys continued to confine and guard her for a Month and Four Days. What became of the Plaintiff afterwards, we have no Account, but ſhe never returned to her Houſe; and the Defendant Behader Beg is in the Poſſeſſion of it. The Plaintiff muſt have left her Houſe on the 7th January, and about 14, 15, or 16 Days after, that is, on the 21ſt, 22d, and 23d of January, all the Defendants returned again, and a Diviſion was made of Part of the Effects in Four Parts. Cojah Zekerea, though ſtill in Confinement for the Forgery, was nevertheleſs treated as the Agent of the Widow, and was ſent for to ſee the Diviſion made. This took up many Days, Part of which being ſick, he was abſent. A Third Part of what was divided, was ſet aſide for the Widow, not under the Care of Cojah Zekerea, but of the Cauzee; for though Cojah Zekerea was conſidered a proper Vakeel for the Purpoſe of ſeeing the Diviſion, yet being a Priſoner, was deemed incapable of taking Charge of the Widow's Share. The Reſt of the Effects were delivered to the Defendant Behader Beg; but the Plaintiff has not, to this Day, received a ſingle Article of thoſe which were allotted to her. The Defendant having produced no Tranſlation either of the Inventory or the Appraiſement, the Plaintiff was obliged to prove what Things were taken away, and the Value of them, by ſuch Evidence as ſhe could procure; and ſhe has proved Effects taken away to a very large Amount.

As it was evident that great Part if not the Whole of the Plaints was proved, and the Defendants could not by Evidence contradict ſuch Facts which would indiſputably, while unanſwered, entitle the Plaintiff to a Judgment, they were forced into their Juſtification (read it) Mr. Tilghman objected to their going into it for ſeveral Reaſons, the Whole of which were well urged and ably argued. After hearing the Advocates on both Sides, though the Court ſeemed unanimouſly inclined to over-rule all Mr. Tilghman's Objections but One, yet, as we were of Opinion with him in that which indeed went only to the Juſtification of Three of the Defendants, (and we ſaw other ſufficient Objections, which went to the Juſtification of all the Defendants) we gave no poſitive Opinion about them; but it muſt not be underſtood that our not doing it aroſe from any Difference in Opinion, for as far as we conſidered the Objections, we thought alike; I ſhall not go over that Opinion again, but will ſtate the Grounds of our Judgment, viz. that if the Whole of the Special Matter, of which Notice was given, ſhould be proved by Defendants, yet it would not amount to a Juſtification.

I muſt however obſerve an Inaccuracy that we were led into, by the Attorney for the Company not having delivered to us true Copies of the Notices. I had compleat Confidence in that delivered to me; and had not my Brother Hyde's great Accuracy led him to collate his with the Originals, the Error would have paſt undiſcovered, and the Court have incurred the Imputation of having miſtated the Facts on which they gave their Opinion. The principal Error does not go to the Grounds of our Opinion, but makes ſome Obſervations to be not literally true; there are other Errors which I ſhall not take Notice of, becauſe I do not know that they have led us into any Miſtake. The Juſtification of Behader Beg ſtates the Juriſdiction of the Patna Council, as extending to Cauſes between Muſſulmans and Muſſulmans, and ſtates no other Juriſdiction; that of the other Defendants, a general Juriſdiction in the Council with Regard to Perſons, and does not confine it to Mahomedans; but the Copies delivered to the Judges ſtate the Juriſciction, or the Juriſdiction of the Cauzee and Muftees to be as ſtated in that of Behadar Beg's, viz. between Muſſulmans and Muſſulmans only. This led me to ſay, when ſpeaking of the Juſtification of the Cauzee and Muftees, that the Patna Council, by delivering over Cauſes between Muſſulmans and Muſſulmans, to be heard, tried, and determined by the Cauzees and Muftees, had delivered over to them the Whole of the Juriſdiction which they had ſtated to lie in them; but it turns out, that Obſervation is ill founded, becauſe by the original Notice it appears they ſtate a Juriſdiction to be in them in Cauſes between all Perſons, whether Muſſulmans or others.

But as this does not go to the Principles of our Determination, it has not varied our Opinions; for though by the Notice the Council do not ſhew they have paſſed all the Juriſdiction in all Cauſes out of themſelves to the Cauzee and Muftees, yet they ſhew that in this Cauſe, which they ſaid is to be referred not on any Point of Law, but to be heard, tried, and determined by the Cauzee and Muftees, they paſſed the whole of their Juriſdiction of this Cauſe to the Cauzee and Muftees, which is ſufficient to maintain our Opinions in this Cauſe, as if their whole Juriſdiction, in all Cauſes had been delegated by the Council to the Three Defendants.

I make this Obſervation principally to avoid what aroſe from Negligence of the Attorney being imputed to the Inattention of the Court; we could the leſs detect this Error, becauſe, though our Orders are, that Copies of ſuch Notices ſhall be delivered to the Judges at leaſt Four Days before the Cauſe is tried, yet our Copies were not delivered till the Night before the Trial, and I did not receive mine till Twelve o'Clock of that Night. The delivering Copies ſo late is equal to delivering none, indeed it would be better totally to diſregard our Orders, and deliver us no Copies, than to miſlead us by delivering ſuch as are not true.

We are very ſhort in our Opinions as to the Objections taken up by the Court; becauſe they were, on Compariſon of the Plaint, and the Proofs given with the ſeveral Juſtifications, ſelf-evident, we confined ourſelves to ſaying it would be difficult to ſhew that any one Count was juſtified.

But as the Counſel for the Defendants ſeemed diſſatisfied with our Opinion, I have again reviſed the Plaint, the Proofs, and the Juſtification; and I will ſhew the particular Parts proved and unanſwered by the Juſtification, and that what we then ſaid is literally true.

I will firſt compare the Proofs with the Counts. With regard to the Firſt Count, the Aſſault is proved, by the Search inſiſted on by Behader's Wife, and the Woman with her.

With regard to the Second, Aſſault and Impriſonment is proved, by the Peons ſtationed round her Houſe, before the Inventory taken, and their ſtopping her Palanquin, and attempting to ſearch her when ſhe left the Houſe.

With reſpect to the Third Count, the whole was Aſſault, Battery, and Impriſonment, and ſevere Treatment at the Monument of Shah Auzum, with every Aggravation, except the Searching the Plaintiff indecently, is compleatly proved.

With regard to the Fourth, the entering the Houſe, and expelling and keeping Poſſeſſion, to the filing the Plaint, that likewiſe is fully eſtabliſhed.

With regard to the Fifth, a Second entering the Houſe, and almoſt every Article laid in that Plaint, has been proved to be taken away. I will now compare the Juſtification with the Counts.

With regard to the Aſſault and Battery ſtated in the Firſt, Second, and Third Counts, no Act whatever is ſtated in the Juſtification, which bears an Affinity to an Aſſault and Battery.

With regard to the Second and Third, as far as relates to the Impriſonment, the Juſtification ſets out no Perſonal Reſtraint, legal or actual; and of the Severities exerciſed at the Durgah of Shah Auzum, not the leaſt Notice is taken.

With regard to the Third, Fourth, and Fifth Counts, as to the breaking, entering, ſeizing, expelling, and keeping her out of the Dwelling, there is not one Fact ſtated that bears the leaſt reſemblance to ſeizing the Houſe, the expelling the Plaintiff, or keeping her out of Poſſeſſion. It is not even ſaid that the Defendants ever entered the Houſe; nor can it be taken by Implication, for it is not ſtated that the Goods inventoried and parcelled out, were in the Houſe of the Plaintiff.— The only Manner theſe Facts are taken Notice of, is by the Concluſion. Theſe, without mentioning one Act the moſt diſtantly related to thoſe complained of, both Juſtifications ſay, "The ſaid Acts ſo done by the ſaid Defendants, are the ſame; aſſaulting, beating, and impriſoning the ſaid Naderah Begum, and breaking and entering her Dwelling Houſe, and keeping her out, in the ſeveral Counts in the Plaint filed in this Cauſe mentioned, and no other."

What paſſed at the Durgah is entirely forgot. Of all the many Charges, the only one that remains to which the Juſtification can apply, or to which it even alludes, is the taking and carrying away the Goods. Though the Objections are ſo obvious and ſo forcible, thoſe who conducted the Defence ſtill inſiſted that this ſpecial Matter did amount to a Juſtification, and declared a Reſolution to appeal from the Judgment of the Court, and inſiſted on going into a Juſtification, though they certainly had no Right ſo to do, after the Opinion of the Court formally taken on that Point. But that all might be before the Court of Appeal, and as nothing could be loſt by it but our Time, we permitted them to go through it. This we did more willingly, becauſe, in mitigation of Damages, they certainly had a Right to give, without Notice, ſuch of the Facts in Evidence, as would not amount to a Juſtification. Some Declarations made on the Part of the Defendants, cauſed the Plaintiff's Advocates, contrary to their uſual Practice, to reſolve to hold the Company to ſtrict Proof, and admit nothing. This is the firſt Action in my Memory, where every thing preliminary to the Merits have not been admitted on ſuch Evidence, ſuffered by Conſent of the Parties to be taken, as the Court could not have admitted without Conſent.

Mr. Kneller, Under Secretary to the Governor General and Council, was called to produce the original Proceedings of the late Preſident and Council, containing the Plan of the Committee of Circuit for the Eſtabliſhment of Courts of Juſtice, and the Orders by which they were actually eſtabliſhed. The Advocates had been in ſuch conſtant Practice of receiving Admiſſions, inſtead of making Proofs, boggled in Limine. They thought it neceſſary to prove Mr. Kneller Under Secretary; they attempted to do it; but Mr. Kneller having been appointed in Writing, and not having that Appointment with him, they did not ſucceed; but the Court eaſed them of that Difficulty, by acquainting them, we ſhould think it ſufficient if Mr. Kneller acted as Under Secretary, and would acquaint us from whom he had the Books, and prove them Originals.

The Books were now produced. They turned out to be Copies of Proceedings unauthenticated by the Members of the Board, and not treated as Originals by the Governor General and Council themſelves; for the authenticated Copies tranſmitted to England, are not tranſcribed from theſe Books, but from original Papers carefully kept in the Office; and to thoſe Papers the Members of the Council recur to correct theſe Books by, when Errors are detected in them. After Mr. Kneller had gone ſeveral Times to fetch the Originals, during all which Time the Court ſat in Expectation of them, he at [illegible] brought him. Mr. Kneller ſaid, He produced, but had no Authority to give them in Evidence; and for what Reaſon I know not. Thoſe who managed the Cauſe, though they offered the Copies, refuſed to give the Originals in Evidence at the Time they were laying on the Table: So that they could not, or what in this Cauſe amounts to the ſame Thing, they would not prove the legal Eſtabliſhment of the Court of Juſtice, which was to give a Sanction to the Proceedings. Had the Juſtification been good, this Refuſal muſt have prevented a Judgment for the Defendants, and this at firſt appeared to the Defendants Advocates to be a fatal Objection; becauſe, if theſe were in lawful Court, they could receive no legal Protection for the Acts done under its Authority.—But they ſo often recurred back and inſiſted on their Juſtification, that we do not at this Time know whether they mean to deſert or rely upon it. We will therefore examine all the Evidence given for the Defendants, and whether any and what Part of it is proved.—The Witneſſes for the Defendants were called in ſo irregular a Manner, that it is difficult to extract Materials for a continued Narrative. Mr. Young proved, that in Fact ſuch a Council exiſted, and that he was an acting Member of it; that it held Juriſdiction in Cauſes between Muſſulmans and Muſſulmans, and that it did ſo at the Time the ſeveral Actions were done which are the Cauſe of the Plaintiff's Action.

That the Court iſſued Proceſs, and having tried the Cauſes, gave Judgment; and that the Defendants Cauzee Sahdee, Muftee Baractoolah, and Gullaum Muckdoom, acted reſpectively as Cauzee and Muftees; that they anſwered all Points referred to them in the Mahomedan Law; and that in Caſes of Inheritance, it was uſual to refer to them both the Law and the Fact; and in this he is confirmed by Mr. Golding, who ſays, it's not an univerſal Practice.—He ſays, the Proceedings of the Court were regularly tranſmitted to the Governor General and Council, and that, as they never objected to this Mode of Proceeding, he had conſidered the Practice of referring Cauſes to the Cauzee and Muftees, to be a Part of the Conſtitution of the Court. He ſays, it is the Duty of theſe Officers, whom he eſteems in Part Judicial and in Part Miniſterial, in Cauſes of Inheritance, to take Inventories in the Inſtitution of the Suit; but that the Parties or Perſons authorized by them muſt be preſent, and ſeal up the Effects in diſpute upon the Place, till Judgment, and after Judgment, to allot and diſtribute them to the Parties entitled to them by the Judgment; that it is an invariable Rule, that the Parties, or their Muttullak Vakeels, with full Powers, ſhould be preſent at the hearing and determining the Report.

That the Report made by the Cauzee and Muftees is not abſolutely final between the Parties, for they have a Right to make Objections; and if they make Objections which in the Opinion of the Court deſerve Notice, they would be attended to. This ſeems rather Mr. Young's Opinion, of what would be equitable than the real Practice; for Mr. Young ſays, I would certainly allow ſuch Objections to the Report. Being aſked, If he ever recollected any Caſe in which an Objection had been made? he at firſt anſwered, He did not recollect any: Afterwards ſays, He does recollect one, and could if he had Time to conſider recollect more; but nevertheleſs, though called on to name it, he does not name that Inſtance which occurred to his Memory.—He ſays, That beſides this Court of Provincial Council (which is what I never heard before) that there is another Court of ſimilar Juriſdiction, held before One Member of the Council by Rotation; that an Appeal lies from the Court held before the ſingle Member of Council to the Court of Provincial Council, and from the laſt to the Governor General and Council, conſtituting a Court called the Sudder Dewannee Adaulut; that there is no Court but the laſt to receive an Appeal. This

Court, Mr. Bogle informs us, was aboliſhed in November 1775. I do not know whether Mr. Bogle means literally, aboliſhed or diſcontinued; [and Mr. Young ſays, in explanation of that Part of his Evidence, that he conſidered the Examination by the Keeper of the Khalſa Records, as preparatory to the Deciſion of the Governor General and Council, &c. as a Sudder Adaulut. He ſays, That the Council at Patna never had an official Notice of the Abolition of the Sudder Adaulut. We were then told by the Company's Agent for Law Suits, though not on Oath, and therefore not taken down in Evidence, that Cauſes appealed to the Governor General and Council, were referred to this Officer of the Khalſa in like Manner as original Cauſes are referred to the Cauzee and the Muftees below; and that he re-examines the Parties, and re-examines and re-hears the old and receives new Evidence; and on his Report, the Governor General and Council determine the Cauſe. The Defendants then proved to ſhew how they acted under the Authority of the Court.—Mr. Droz proved the original Petition of the Plaintiff exhibited in the Council ſitting as a Court; but I ſee no Diſtinction when they ſit as a Court, and when as a Council, and that it was what the Council proceeded on (G). Mr. Young proved the Book of Proceedings of the Patna Council, to be ſigned by ſuch Members of that Council as were preſent when the Proceedings were had; but what makes the Paſſages read in Court to be Evidence, is Mr. Young's proving his Signature to them, and the Proceedings which he has ſubſcribed relate to were actually had.

Theſe are extracted, and bear Date reſpectively on the 2d, 20th, and 30th January 1777, and the 20th March and 3d April next following.

I ſhall introduce them and the other Evidence not in the Order in which they came before the Court, but in that Order in which the Matters they relate to have actually paſſed, and under the Heads of Evidence to which they relate. In conſequence of the Petition (G) a Tranſlation of which little varying from what has been before read, ſtated in the Proceedings, the Council came to the Reſolution included in Extract (H) and on that Reſolution the Perwannah (S) proved by Mr. Droz is iſſued. What was done under this Proceſs as proved by the Plaintiff, has been already related. Let us ſee whether the Account given by Defendants differs materially from it.

The Witneſſes to this Point are Anunderam, Dewan of the Cauzee, and Kurreen Ullah, who is one of the Muftees attending this Court, and a principal Actor in all this Buſineſs.

They take up this Buſineſs at the Time the Defendants came to take the Inventory; and ſay nothing of the placing Peons about the Houſe the Night before.

Anunderam ſays, that when the ſeveral Defendants came, the Plaintiff objected to having any Inventory taken; that the Witneſs Coja Zekereah undertook to perſuade her; that, after going Two or Three Times to her, he returned, and ſaid the Begum had conſented, and brought Two Witneſſes, Zulfickar Alli and Meerkhawn, to prove before the Cauzee, that the Widow had appointed him Vakeel, and a Vakeelautnama was afterwards wrote by the Defendant Muftee Gullaum Muckdoom; that the Cauzee deſired Zulfickar Alli to get the Vakeelautnama ſigned, who fetched the Seal from the Begum; that the Vakeelautnama was ſealed with her Seal, either by Zulfickar Alli or Coja Zekereah, and that the Cauzee took and kept it. He ſays, it is uſual for Cauzees to keep ſuch Papers.—Then the Defendants proceeded to take an Inventory; and that another Inventory, by the Direction of Coja Zekereah, was made by Newauz Ali and Newauz Sing; that the Rooms where the Effects were, were locked up and ſealed by the Cauzee and Muftees, the Keys were put into a Bag ſealed with the Seals of Behader Beg and Coja Zekereah, and the Bag remained in the Poſſeſſion of the Cauzee. No Account is given of the being turned out of the Houſe, &c. nor is the Circumſtances relative to the perſonal Outrages, attempted to be denied, though ſeveral Witneſſes called by the Defendants were preſent at the Time. This is the Whole of the Evidence given by the Defendants of what paſſed at the Time of taking the Inventory. But the taking the Inventory was not the only Thing ordered to be done, they are further authorized by the Perwannah, "according to aſcertained Facts and legal Juſtice, to tranſmit to the Council, a "written Report in this Cauſe, under their Seals, ſpecifying how much is to be given, to what Per-"ſon according to the Koram and the Decrees."

This Part of the Perwannah is founded on the Order of the Council, which agrees, &c. that the Goods be in charge of the Defendants till a "Diviſion can take Place, and that they do allot "the Shares, &c."

The Two laſt Witneſſes ſay, that the Cauzee and Muftees went to the Houſe of the Deceaſed to judge and decide who were entitled to the Eſtate.

This going to the Houſe, from other Witneſſes of the Defendants appears to have been when the Inventory was taken.

As this is the only Mention made by the Defendants of an Examination into the Parties Rights, it can be the only Foundation for the Report which they made, and which is entered on the Proceedings of the Council. It is neceſſary to examine how they executed this Part of the Order, and aſcertained theſe Facts which were to be the Foundation of that Report, which the Council were to carry into Execution. No direct Evidence is adduced to this Point. It can therefore only be gathered by what is ſaid by Zekereah, Kurreen Ullah, and Newaz Ali.

Zekereah on his firſt Examination ſays, "while they were taking the Inventory the Cauzee ſome Day came to the Houſe of the Plaintiff, and deſired me to aſk her, on what Grounds ſhe laid Claim to her Huſband's Effects?" I did ſo; and returned with this Anſwer, "that ſhe had a Mohurnama (that is a Marriage Settlement) an Hebenamah (which is a Deed of Gift) and an Ekrauraum, (which is Acknowledgment of a Gift to a Perſon in Poſſeſſion, ſomething in Nature of a Releaſe) on which ſhe founded her Claim." On the Defendant's aſking to ſee them, he delivered Copies of the Hebenamah and Ekrauraum to the Cauzee, who demanded the Originals, but the Plaintiff refuſed to deliver them. This muſt have been the Firſt or Second Day that they came for the Purpoſe of taking the Inventory.

The Cauzee Sahdee came another Day, and aſked for the Originals; on their being refuſed, ſaid, they were Forgery; on which Zulfickar Alli, Vakeel to Behader Beg, cried out, that "*it* was a Forgery."—What Paper he alluded to, it's evident; for he aſſerted, that it was written after the Death of Shah Bez Beg Khan, and that the Seal of Syed Ahmud Khan was affixed to it. This muſt have been the Second Day they came to take the Inventory, or the Morning afterwards, for on that Morning the Plaintiff quitted the Houſe; and Cojah Zekereah was taken up that Day, and had not afterwards any acceſs to her. Kurreen Ullah ſwears, he remembers the Cauzee's enquiring of Zekereah on what Grounds his Conſtituents laid Claim to the Effects, or was poſſeſſed of them? that Zekereah anſwered, Three Things are the Grounds of our Right, the Mohurnama, the Hebenamah, and Ekrauraum; that it was then he ſaw the Papers produced by Zekereah, and ſwears poſitively to Paper (N.) Hebanamah being then produced, and likewiſe the Ekrauram (P.)

The next Evidence, in order of Time, is the Extract from the Proceedings (I. 20th January 1777,) which contains the Report of the Cauzee and Muftees, and the Order of the Council conſequent on it. (Vide I.)

Mr. Droz verifies the exhibits V and P., the Hebenamah and Ekrauraum, to be Papers produced before the Council, at the Time of the Report. Mr. Young gave ſome Evidence of what paſſed at the Report in Council, which I ſhall conſider in another Place. In conſequence of the Order contained in this Extract, the Perwannah (20th January 1777) is proved by Kurreen Ullah to have iſſued; the Account of the executing the Authority under this Perwannah, is given by Anunderam, Kurreen Ullah, Cauzee Hautim, Shebuckram, and Newaz Ally. Anunderam ſwears, when the Cauzee and Muftees came to make the Diſtribution, that Zekereah appointed Hautim to appraize the Goods on the Part of the Plaintiff; that Zekereah *took* One Share, the Reſt was delivered to Behader Beg; that the Share of the Begum was put in a Room, ſealed and locked up, and that the Key was kept by the Cauzee. He ſays, Zekereah was under Confinement during the whole Time that the Diſtribution was making; that he was brought under Confinement to act on the Part of the Begum, but was abſent on account of Sickneſs for Four Days; during that Time, he ſays on, that he does not know what became of the Plaintiff's Share after the Seals were taken off, but he believes Behader Beg is ſtill in Poſſeſſion of the Houſe.

Kurreen Ullah ſpeaks of the Appointment of Hautim by Zekereah to appraize for him; that Hautim appraized the Shawls and Piece Goods; and that Zekereah approved of One Share, and directed what ſhould be choſen for the Plaintiff. He ſays, that Jewels were not divided; that the Cauzee took the Key of the Room where Plaintiff's Share was, becauſe Zekereah was in *another Place* and could not take the Things.

Cauzee Hautim ſaid, that he was brought by a Peon of the Sircar (that is of Government.) He ſays, the Appraizement took up Twelve Days; that on his firſt coming in, Cojah Zekereah ſaid he ſhould appraize for him; that Zekereah at firſt ſaid he would take no Share; but being told by the Cauzee, it was the Council's Order, he took a Share. Zekereah was ſick and abſent Part of the Time. The Begum's Share was locked in a Room, of which the Cauzee kept the Key.

Shebuckram confirms the above Witneſſes; that Zekereah was ſent for at the Diſtribution; that he was then in Confinement; at firſt objected, but after conſented. Newaz Ally called to prove his taking Account for the Plaintiff, ſays, he was ſometimes preſent and ſometimes buſy while the Account was taking.

The next Evidence is Extracts (K, L, and M.) dated the 30th January, 20th March, and 3d April [read them.] This is the whole, or at leaſt all the material Evidence that has been given under, or could apply to the Juſtification. Paſſing over the want of Proof of the Legality of the Court, I will examine what Parts of the Juſtification they have, and what they have not proved; and what Acts would have been juſtified, had they proved the Court at Patna to have been a legal Court. And for that Purpoſe I will briefly run over the Juſtification of the Cauzee and Muftees, becauſe that is the fulleſt, to ſhew where the Proofs have been defective, and to point out to the Company's Advocates, what is neceſſary for them to prove, if they ſhould ever ſet up a Juſtification ſimilar to this. The Juſtification aſſerts, that before the Act of Parliament, the ordering, &c. the Territorial Acquiſitions was exerciſed by the Preſident and Council of Fort William; as this is recognized by the Act of Parliament, there was no Occaſion to give Evidence of this notorious Fact. They have not only failed with reſpect to the Eſtabliſhment of the Court, but though they aſſert a Practice to iſſue Proceſs to prevent the removal and ſecreting Goods, and the Mode by which Cauſes between Muſſulmans and Muſſulmans were determined; that during that Time an Appeal lay to the Preſident and Council of Fort William; and that before and at the Time of making the Act, Proceſs iſſued to and was executed by the Cauzee and Muftees, and that they held a Court of Honour. Aſet of all this, and whatever elſe is aſſerted to have been practiſed before the Act of Parliament, no Evidence has been produced. But this is material there ſhould. The Argument drawn in the Juſtification is this, theſe Things were lawfully done under the Authority of the former Preſidents and Councils. The Act of Parliament has given Power to the preſent Governor General and Council to order, &c. the Territorial Acquiſitions in like Manner as the ſame then were, or heretofore might have been, exerciſed by the Preſident and Council; theſe Things therefore may be lawfully done under the Orders of the Governor General and Council. If then their Acts were not done, and what is the ſame Thing, not proved to have been done, before the Act, by the Preſident and Council, or Select Committee, the Major of the Syllogiſm is not ſupported; and the Statute gives no Power to do them under the Authority of the preſent Government. The ſealing, locking up, and ſequeſtring the Effects of the deceaſed Perſon, ſimply on Claims unverified by Oath, and before Examination of Witneſſes, muſt, in many Caſes, be extremely inconvenient; but I will not ſay, cannot be juſtified by the Mahomedan Law: But ſurely it was incumbent on the Defendants to ſhew that Law, or that it was practiſed in that Court under the Authority of that Preſident and Council, or Select Committee; or at leaſt, that it had been actually practiſed before the Act of Parliament; but on this *Head* the Evidence is ſilent.

Mr. Young ſays, indeed, it was the Practice of this Court; but by what Authority it was introduced he does not acquaint us, nor that it was ſo before the Act.

The Act ſupplies the Proof of the Eſtabliſhment of the Government. It is aſſerted, that the Governor General and Council have committed and entruſted the Adminiſtration of Juſtice to the Provincial Council. That ever ſince the Governor General and Council took on them the Government, the Cauzee and Muftees had uſed to exerciſe, and were ſuffered to exerciſe, the Powers before ſet forth.

As there is no Proof the Court exiſted before and at the Time of the Act, it could not be continued after it; and that the Governor General and Council actually committed and entruſted the Adminiſtration of Juſtice to the Provincial Council at Patna, though capable of poſitive Proof, has not been attempted to be proved poſitively.—The only Evidence which can apply to this, is collaterally, and it is that of Mr. Young only. He ſays, that there was an Appeal to the Governor General and Council in the Sudder Dewannee Adaulut; and that the Proceedings of the Provincial Council are regularly tranſmitted to the Governor General and Council: But Mr. Young gives no Inſtance of any Appeal; and I doubt the Fact of there having been any ſince the Eſtabliſhment of the new Government. The Sudder Dewannee Adaulut was aboliſhed or diſcontinued in November 1775; and it is well known, that the Governor General and Council never ſat in that Court; and we have never heard of any Court of Appeal being inſtituted in its Room; in Fact, there has not ſince that Period. It is notorious, that there have not been many Inſtances in which the Governor General, &c. have decided on private Rights; and we doubt whether there is a ſingle Inſtance of their judging on an Appeal. The Whole has ever ſince remained with the inferior Courts.

The Evidence is not only defective as to the Eſtabliſhment, but we have no Proof of the Exiſtence of this Court at Patna, de Facto, earlier than the Year in which theſe Tranſactions paſt; and that is by Mr. Young, who ſays, that it was a Court in 1777. This Tranſaction began with this Year. The Firſt Proceedings bear Date on the 2d January; and the only Book of Proceedings commences with that Year.

The Territorial Acquiſitions, &c. were in the Poſſeſſion of the Eaſt India Company. They gave no Evidence; and, I think, left it properly to the Notoriety of the Fact. It is alledged, that the Provincial Council, at the Time of the Treſpaſſes, &c. conſiſted of Iſaac Sage, Simeon Droz, Ewan Law, Edward Golding, and William Young, nominated and appointed, or continued by the Governor and Council, were uſed and accuſtomed to ſit as a Court of Juſtice.—Of the Appointment, Continuance, or Confirmation of any one of theſe Gentlemen, no Evidence is given.

Mr. Young indeed proved, that the Three laſt of the Gentlemen, viz. Simeon Droz, Ewan Law, and himſelf, acted at that Time (nothing is ſaid of Mr. Sage) as a Court of Juſtice; and ſo ill prepared were the Defendants, that Mr. Young himſelf could not prove his own Appointment; ſo far from proving that any of the Gentlemen were uſed and accuſtomed to ſit as a Court of Juſtice, that no one Inſtance is ſhewn of their ſitting but in this Cauſe. The Defendants Cauzee and Muftees claim to be appointed by the Emperor Shah Allum.

Though there is no ſmall Degree of Ridicule attending the ſitting on an Authority under that unfortunate Prince, yet we ſhall not call his Right of appointing them in queſtion. It is ſufficient to ſay they have not produced the Imperial Appointments. They are not proved to be Officers of the Court; they are indeed to be Attendants upon it. Kurreen Ullah, one of the Muftees likewiſe attendant on this Court, ſwears, that they are not amenable to the Court, but only to Shah Allum and to God, and public Report; and that they are not amenable to the Court. He is confirmed by the Evidence of Mr. Young, who ſays, that in Caſe of Miſbehaviour the Court itſelf has no Power to remove them, but muſt make a Repreſentation to the principal Cauzee, who no Doubt would remove them. To theſe independent Attendants of the Court, it is that the Cauſes between Muſſulmans and Muſſulmans are to be generally referred, to be heard, tried, and determined.

However manifeſtly ignorant, wicked, or corrupt they may turn out, though they may adviſe them palpably againſt Law, though they may miſtake Facts and falſify Evidence, yet the Court cannot remove them, but the principal Cauzee may. Who he is, and to whom amenable, whether to Shah Allum and God only, I know not; but if he will not, muſt theſe References ſtill continue to be made to Men convicted of having betrayed the Truſts of their Offices? Had it not been poſitively ſworn that Shah Allum and the principal Cauzee exerciſed theſe Authorities, we could not have believed that the Provincial Council at Patna ever had or would have applied to the principal Cauzee to remove Attendants on their Court, who are appointed by the Provincial Council or their Chief; for it is in Evidence, that One of theſe Defendants was appointed by Mr. Lane, then Chief of that Council, and we have ſome Doubts ſtill remaining that they either would or ſhould.

Here ends that Part of the Juſtification from which any Authority can be derived; and that it is not only not proved, but no Evidence has been attempted to be given to ſupport it.

Treating the Lawfulneſs of the Act as ſelf evident, they directly enter into the Proof of them, and leave them to juſtify themſelves by their own intrinſic Merits. They firſt prove by the Delivery of a Petition, a Commencement of a Suit before the Provincial Council (that the Parties are Muſſulmans are admitted) and that the Provincial Council made References to the Cauzee and Muftees, to take an Account of the Eſtate and Effects, and ordered them to collect and ſecure the Effects, to prevent their being removed or ſecreted; and to allot the Shares of Claimants is proved by the Proceedings of the Council of the 2d January 1777, (H) and the Perwannah (S) in conſequence of a Reſolution then made.

Theſe are the only Proofs of any Reference to the Cauzee and Muftees; what in Fact was referred, we ſhall afterwards examine; but if this be the Reference of a Cauſe, how does it ſtand in the Evidence? The Court in giving their Opinion on the Juſtification, thought it a fatal Objection that the whole Cauſe was referred. It now turns out, that this was not only before any Anſwer given in by the Defendants, or before any Conteſtation of Suit, not only before it was or could be known whether there could be any Defence, but before the Party had any Summons or Notice to appear to the Suit. It was therefore then merely ex parte. What are the Acts done under this Perwannah? All they juſtify, is the ſecuring, collecting, and detaining certain Goods and Effects in the Poſſeſſion of the Plaintiff, being the Goods in Diſpute, had the Acts kept equal Pace with the Allegation, and had they ſtated that they had, according to the Exigence of the Perwannah ſent the Vakeels of both Parties, they would have been within the Line of their Authority.

Though enjoined by the Order of the Council, they do not ſay that they allotted the Shares; though commanded by the Perwannah, they do not ſtate that they made a Report, otherwiſe than by ſaying the Cauſe was duly proceeded into Hearing and Judgment. But in Truth their Acts went much further; Peons were placed on the Houſe, and prevented free Ingreſs and Egreſs the Night before the Inventory was taken.

They did not collect the diſperſed Goods in one Place as directed; but they ſealed and locked up every Door in the Houſe; they expelled the Plaintiff, they ſearched, they drove her to the Durgau; they purſued her there, and kept her in Confinement for many Months, and not one Circumſtance of the Severity of the Treatment of the Plaintiff, or of the Behaviour of the Defendants, is attempted to be controverted, yet all this, if done by any Authority, muſt have been by that of this Order and Perwannah only; for at this Time no Order had been made by the Council.

An Order of the Council (K) was indeed made on the 31ſt January, Ten Days after the Judgment given; that the Plaintiff ſhould be conſtrained to return to her Houſe, under the Protection of Behader Beg, and deliver up the Sunnuds and other Papers of the Eſtate. This was made on the bare Petition of Behader Beg, ſtating, that ſhe refuſed to give up the Ultumghaw Sunnuds, and otherwiſe comply with the *Decree* of the Cauzee and Muftees; that ſhe had abſented herſelf from the Houſe contrary to the Muſſulman Cuſtom, which reflected a Diſgrace on the Family; he therefore prays ſhe may be given up to his Care, as a Repreſentative to the Heir, which he ſtates to be the uſual Mode eſtabliſhed in this Country.

This Man, in whoſe Preſence the Plaintiff was drove from Room to Room, till ſhe was obliged to ſhelter herſelf in a Neceſſary; in whoſe Hearing ſhe was ordered to quit even the loathſome *Place*; in whoſe Sight ſhe was turned almoſt naked into the Streets, now complains of the Diſgrace reflected on the Family, by her refuſing to return to her Houſe. The Man who had been party to this inhuman Treatment of her, prays that ſhe may be delivered to his Care.

This is granted by the Council, without any Examination of the Truth of the Facts alledged in the Petition, without even enquiring into the Reaſon why the Lady refuſed to return, and although ſtated to be the uſual Mode among Muſſulmans, without the Advice, and without any Queſtion put to the Cauzee and Muftees. The Members of this Court of Juſtice, conſcious, and ſtating, that what they were doing was an extraordinary Act of Power, that it was an Interference beyond what was requiſite to obtain, and give force to the Deciſion of the Law Officers, and that it might bear an Appearance of Violence, introduce it, with what a Court of Juſtice ought never to have occaſion for, or make Uſe of an Apology. Being of the Firſt Impreſſion I will read it:

" The Board are very ſorry to find themſelves under the Neceſſity of interfering further in " Matters of private Property, than is neceſſary to obtain and give force to the Deciſion of " the Law Officers; yet, in ſuch Caſes as the above, it becomes unavoidable. The obliging the " Widow to give up the Papers, and return to her Houſe under the Protection of her Nephew, " though it may bear the Appearance of Violence, yet, as we are convinced her Nephew will not be " able to obtain the Papers which ought to be delivered to him, and the Effects of the Woman will " be waſted by her Vakeels and their Abettors, by whoſe Advice ſhe is directed, not her own, " but their Intereſt: Agreed, &c."

Had they enquired into the Truth, they would have learnt that the Decree had been executed as far at leaſt as Behader Beg's Intereſt was concerned; had they conſulted the Cauzee and Muftees, they would have learned that the Begum had been driven from the Houſe by expreſs Orders of the Cauzee, and with the Conſent of Behader Beg; they poſſibly then might have thought that by placing her under the Care of Behader Beg, ſhe might not be under the ſafeſt Protection. But their Anxiety for the Widow did not reſt only in her perſonal Safety, but it extended to her Effects, which they ſay will be waſted by her Vakeels and Abettors, by whoſe Advice they declare *ſhe* is directed, not to her own but their Intereſt. From what Part of the Cauſe, from what Part of the Evidence did they learn this? the Effects which her Vakeels and Abettors were to waſte, were at that Time in the Cuſtody of the Cauzee. Theſe Abettors, whoſe Advice was ſo pernicious, could have no Acceſs to her; they were all in Cuſtody, and that by the expreſs Commitment of the Gentlemen who make this Obſervation, Behader Beg's Complaint of the Diſgrace of his Family, points out in what Manner this Violence was intended to be juſtified; it was by that Authority that the Juſtification claims for the Cauzee and Muftees, independent of the Patna Council, and of the Governor General and Council. " That moreover before and at the Time of making the ſaid " Act, the ſaid Cauzee, and Muftees by virtue of their public Offices, did, to the Knowledge and " with the Approbation of the ſaid Preſident and Council, exerciſe, and were uſed and accuſtomed " to exerciſe, the Powers and Authority of ſettling and determining Diſputes between Muſſulmans and " Mahomedans at Patna, reſpecting their Sect, or the Honour of their Family, and to enforce " Obedience to the Determination of the ſaid Cauzee and Muftees." When I began to obſerve upon this, in ſpeaking to the Objections to the Juſtifications, the Advocates for the Defendants would not ſuffer me even to read it. They confeſſed it to be untenable, and declared that they deſerted it. I therefore did not obſerve upon it. The Order of the 20th January muſt have been made on the Day on which the Diviſion was made, or immediately after; that could not have been compleated earlier than the 29th; but the Begum was impriſoned at the Monument as early as the 7th or 8th.— As therefore this Part of the Juſtification is deſerted, all the Acts done then are not only without Anſwer, but thoſe which were committed between the 8th and the 30th January have not the Authority of an Order of Council.

Whether Cojah Zekereah was or was not appointed Vakeel for the Plaintiff, at the Time of the Inventory taken, can be no further material, as far as it may affect his Credit as a Witneſs, becauſe he had denied it.

It was to her Advantage to have a Vakeel attending. The Right to have one was reſerved to her; and the Defendants gave her an Opportunity of exerciſing it. If the Acts of the Council were legal, ſhe could not defeat them by her Obſtinacy. If ſhe refuſed to appoint a Vakeel to attend to her Intereſt, they might certainly, conſiſtent with the Perwannah, proceed without him, Quilibet poteſt, renunciare, jure pro ſe introducte; and ſhe renounced that Right. Whether Zekereah was or was not her Vakeel when Judgement was given, and the Effect of his not being ſo, is a Matter of different Conſideration. The next Aſſertion in the Juſtification is, "That the Cauſe was duly proceeded into Hearing and Judgement:" This is very material; and as all the Proceedings from the Time the Petition was brought in to the Council, to the Report, was before the Defendants only, it is peculiarly incumbent on them to prove this, eſpecially as it neither appears from the Entries on the Books of the Council, nor by the Perwannah, that they did proceed duly.—But on this material Head they have given no Evidence whatever; nor can we, after the minuteſt Scrutiny, diſcover that there were really any Proceedings intermediate to the taking the Inventory and the Report.

The Perwannah did not direct that the Begum ſhould be called upon to anſwer, that ſhe ſhould be ſummoned, or have any Notice, even by Implication, of the Complaint before the Council, which was only Behader Beg's Petition of the 2d January, for any other Purpoſe than the appointing a Vakeel to be preſent at the taking the Inventory. In the Manner in which the Council had taken up the Cauſe, it was not neceſſary ſhe ſhould; nor does it appear, in Fact, ſhe had that Petition, which could be the only Matter referred to. The Cauzee and Muftees complained barely, that the Begum "had removed and ſecreted the Effects." On this Petition there has been no Proceedings whatſoever.

Examine the Reports. No one Queſtion has been put as to the ſecreting and removing the Goods; the Inventory had been taken; the Goods had been locked up and ſealed; Behader Beg was preſent; he does not once repreſent that they were not all there; he does not ſuggeſt that they were or had been removed. The Matter of that Petition is not inſiſted on by the Plaintiff, nor taken Notice of by the Cauzee and Muftees; but a new Complaint is preferred; and that new Complaint, which never had been before the Council, and which never had been referred to the Cauzee and Muftees, and not the original Petition, is the whole and ſole Ground of the Report.

The Report is founded entirely on a Charge of Forgery, not of ſecreting and removing the Goods.

The Authority on which the Cauzee and Muftees dropt the Enquiry into the original Complaint, and entered into the other, is not ſhewn to us.

This is a full and complete Negative to the Allegation, that the Cauſe was duly proceeded in to Hearing and Judgement.

How the Second Charge was introduced, and in what Manner that was proceeded on, and on the Report itſelf, I ſhall have Occaſion to obſerve hereafter. But as the Council gave their Sanction to this Report, and ordered it to be carried into Execution, and the Defendants have attempted to juſtify themſelves under the Perwannah iſſued for that Purpoſe, I will examine how the Cauſe was proceeded into after this Report. Now, conſidering the Award of Council, and not the Report, to be the Decree in the Cauſe, and in what Manner the Defendants have executed that Judgment, though both the Council, the Cauzee and Muftees, and Behader Beg, all the Way through treat the Report as the Decree, and the Order of Council as an Award of Execution, on that Award itſelf (I) expreſsly ſo deſcribes both the above *Decree*, for the Deciſion of the Effects is *ordered to be carried* into Execution. The Perwannah founded on it ſays (V) You the Cauzee Muftees, by the Order of Council, and according to Law, having determined on the Conſultation of the 30th January (K) it is entered thus: "That Behader Khan repreſents, that the Widow, &c. refuſes to comply with the *Decree* of the Cauzee and Muftees." The Council on the ſame Conſultation lament, that they find it requiſite to do more than "give it Force to the Deciſion of the Law Officers." We have therefore been ſtrictly Right both in giving our Opinions on the Juſtification, and in this Judgment, to conſider that Report, and not the Award of Council, to be the Judgment in this Cauſe.

The Conſultation of the 20th January ſtates, that the Vakeels of both Parties, together with the Law Officers, being called on before the Board, the above Decree of the Diviſion of the Effects is ordered to be carried into Execution, and the Ultumghaw, according to Cuſtom, to be delivered over to the Charge of Behader Beg, who is to allow the Widow one Fourth of the Produce for her Maintenance.

This is all the written Evidence of the Proceeding before the Council; and how does it ſtand on that? That the Decree was, without any other Proceeding, ordered to be carried into Execution unvaried, except as to the Proviſion allowed to the Begum out of the Ultumghaw Lands. The Council, who are attended by theſe Law Officers for the ſingle Purpoſe of their Advice in Points of Mahomedan Law, take upon them to over-rule the Cauzee and Muftees, on a Point depending merely on Mahomedan Law. The Cauzee and Muftees ſay, that the Ultumghaw Lands do not compoſe any Part of the Inheritance of Shawbaz Beg Khan; yet the Council order the Widow to have a Share, conſidering it as an Inheritance, or more properly, deſcendable and alienable, which the Cauzee and Muftees were to make convertible Terms.

Mr. Young ſays, this was done as a Matter of Equity. It is a ſtrange Idea of Equity, that under that Word, a poſitive legal Right can be diveſted out of one Perſon and inveſted in another. Why might not the ſame Equity as well vary the Shares between the Heir and the Widow? Both Rights ſtand equally on poſitive Law.

The Vakeels, though called to hear the Judgment, do not appear to have been acquainted with the Contents of the Reports. It was received in their Abſence; and it is not ſtated, that it was read to them, or that they had any Right or Opportunity given them, to take Objections to it.

But Mr. Young, by his Evidence, endeavours to help this. He ſays the Report was read in the Preſence of the Vakeels, and that they had a right to object; that they made no Objections, but ſeemed content with the Decree, as far as it went to the Diviſion. But they were never called upon to make their Objections, or informed that they were at Liberty ſo to do. As theſe Vakeels are not like Attornies, conſtantly attending Courts, and whoſe Buſineſs it is to be converſant with the Law and Practice of the Courts, but are private Agents, occaſionally appointed, who have no Opportunity to acquire that Information; ſurely, to make this Proceeding due, they ſhould have been told they had ſuch a Right, and been called on to ſtate their Objections, if they had any.—On what Mr. Young ſays, as to the Appearance of Conſent in the Countenances of the Parties, I ſhall take Notice in another Place.

Mr. Young has depoſed, that it is invariably neceſſary that the Parties, or their Muttulluck Vakeels with full Powers, ſhould be preſent. The Begum being a Woman could not. What Evidence is there that any Muttullock Vakeel on her Part was? We have it on Proof, that the Vakeelautnamahs, or Letters of Attorney, are always kept by the Cauzee. If ſuch an Inſtrument exiſted, when the Defendants attempted to prove him Vakeel, why did they not produce it? A Vakeelautnamah is indeed mentioned, and contradictory Evidence given concerning it, at the Time they took the Inventory. It was ſaid to be wrote by Gullaum Muckdoom; but Coja Zekereah denies his having conſented to the Appointment. There is poſitive Evidence the Begum did not; and nothing that we can receive as Evidence, has been brought before us to ſhew that ſhe did.

Anunderam indeed ſwears, that Zekereah produced Meer Khan and Zulficar Alli, to prove that the Begum had given her Conſent to his Appointment; but if that Fact is true, Why were not thoſe Witneſſes examined to it? They are both here. What they then ſaid can be no Proof to us of the Truth of the Fact; it could only go to the Credit of Cojah Zekereah. What the Nature of that Conſent was, is ſufficiently aſcertained. She ſuſpected the Juſtice and Integrity of the Cauzee, and expreſſed it in ſtrong Terms. She aſked, if it was a Contrivance to get her Conſent? Zekereah likewiſe has expreſſed his Senſe of this Tranſaction in as ſtrong Terms. He declared ſhe would not make it her own Act; when preſt, ſhe ſent her Seal, and ſaid, Appoint whom you pleaſe, I will appoint no one. The ſending her Seal was clearly no act of Confidence, but for the Purpoſe of making the appointing a Vakeel the Act of the Defendants, and not her own. What was the Purpoſe for which ſhe was preſſed to make a Vakeel? Only in purſuance of the Perwannah of the 2d January, and that was, only that a Perſon on her Part might be preſent at the taking the Inventory.

Was there any Idea at that Time of appointing a Vakeel with full Powers? Was ſhe even deſired to it, and if ſhe had, was it probable that ſhe who objected to appoint One for ſuch a confined ſpecial Purpoſe, could authorize them to make an Appointment with full Powers? Could they under the Authority attempted to be proved by Zulficar Alli and Sheer Khan? This Paper, after it was wrote by Gullaum Muckdoom, was never ſhewn to her; what the Contents of it were, we are Strangers to, for it has not been produced.

Such an Appointment, with the Conſent of the Begum and Cojah Zekereah, would have been inconſiſtent with the Whole of their Conduct; who, from the Beginning to the End of this Buſineſs, have objected and proteſted againſt it in every Stage, with the moſt uniform Pertinacity.

It is obſervable, though the Perwannah directs that the Vakeels of both Parties ſhall be preſent at the taking the Inventory, yet the Juſtification does not aſſert that any Vakeels were preſent.

It is as obſervable, though the Word Vakeel is in Nature of a technical Word, and as ſuch has been introduced into our Language untranſlated, yet the Cauzee and Muftees, in their Report, have never taken upon them to call Cojah Zekereah the Vakeel of the Begum; though when they mention Zulficar Alli, they expreſsly call him the Vakeel of Behader Beg. Cojah Zekereah is in one Place of the Report called the Repreſentative of the Widow, and through all the reſt of the Report by his Name only. We have not, as we ought to have, had the Report in the Language in which it was formed, to know what Perſian Word has been tranſlated into *Repreſentative*; but if it was

Vakeel, it would be ſtrange indeed, both from the fixed Senſe of the Word, and its not having been tranſlated when applied to Zulficar Alli.—

The Entry in the Book indeed ſays, the Vakeels of both Parties being called in, &c. but that is unauthorized by the Report, or by any Proceeding which had been before the Council. They conſidered her to have more Vakeels than one. They conceived the Perſons they committed that Day to be her Vakeels and Abettors; for in the Entry of the 30th January, they declare that the Effects of the Woman would be "waſted by the Vakeels and Abettors, by whoſe Advice ſhe is directed, "not to her own, but their Intereſt." That they ſhould ſtate that the Vakeels of the Parties were preſent, without Examination, whether there were any ſuch Perſons or not, will not appear inconſiſtent with the reſt of their Proceedings; for they committed Cojah Zekereah, Gyrut Beg, Enayut Ullah, Cawzee Muzoom, and Mahomed Ewauz, till the Effects ſaid to be ſecreted ſhould be produced, when not only the Report which they relied on as the whole Proof in the Cauſe, was totally ſilent as to ſecreting Effects, but when it muſt have appeared, had they queſtioned the Cauzee and Muftees, that none had been ſecreted; and when the Petitioner himſelf had deſerted that Charge, and ſubſtituted another in its room. But as the Council have by Matter, ex poſt facto, as it were, adopted the ſecond in the Room of the firſt Complaint, and ordered the Decree to be carried into Execution, we muſt ſee what has been juſtified, and what done under that Order.

The Perwannah, in conſequence of that Order, and of the ſame Date, commands, "That you the Cauzee and Muftees, of the Effects, Houſes, &c. of Shawbaz Beg Khan, and alſo of ſuch Things as may be diſperſed, having collected them together, do deliver Three Parts to Nadarah Begum, and give the Nine Parts which belong to Allum Beg, in Change of Behader Beg Khan, the Son of Allum Beg; and that Behader Beg, on the Part of Allum Beg, holding and keeping the Property in the Ultumghaw, ſhall, out of the Produce thereof, and according to the above Rule, give Three Parts in Twelve to Nadarah Begum during her Life-time, "Year by Year." How was this executed, and Cojah Zekereah then in Priſon, under a Charge of Forgery, is ſtill conſidered by the Cauzee and Muftees as the Agent or Vakeel of the Begum, though, as Kurreen Ullah ſays, he could not take the Charge of her Share, becauſe ſhe was in another Place.

They proceed to the Diviſion, having called in Appraiſers. As to Hautim being authorized to appraiſe for Zekereah, as that does not affect the Merits of the Execution, but only Zekereah's Credit, I ſhall reſerve that Obſervation till I conſider the Credibility of the Witneſſes. The only Things of which there is Evidence were divided, and of which they allowed a Fourth to the Widow, are the Shawls, Muſlins, Silks, and Goods of that Nature. It is poſitively in Evidence, that ſhe had no Share of the Jewels (they were not divided) yet many of them were peculiarly for the Uſe of Ladies.

Some Effects were conſidered not diviſeable; and for theſe laſt there is no Evidence that any Compenſation was allowed to the Widow. There is no Evidence that there was any Diviſion of the Money, or Plate, or Horſes; no Evidence that any Share of the Houſe was allotted to the Plaintiff, no Evidence that any Security was taken from Behader Beg or Allum Beg, that they ſhould ſuffer her to enjoy the Share allotted to her of the Ultumghaw Lands: And as to ſuch Share as they thought fit to allow, there is poſitive Evidence from the Defendants themſelves, that no Part whatſoever came to the Hands of the Begum, nor that any Tender was made; and it is in Proof, that now, at the Diſtance of Two Years from the Tranſaction, they ſtill remain in Charge of the Cauzee. Whether it was ever intended ſhe ſhould have it, is at leaſt very doubtful; no Reaſon has been given why it has been ſo long withholden from her.

That Widows, who from their Sex (more eſpecially if of any Rank) are entirely helpleſs in this Country, have been, by Black Officers attending theſe Courts, thought proper Objects for Rapine and Violence, we have had before proved to us, in a very ſtrong Inſtance, in the famous Cauſe known by the name of Bubee Sookeen's Cauſe, which likewiſe took its riſe at Patna. There is no more Evidence offered under the Juſtification.

The Court ſtill remain of Opinion, that, had they proved every Fact ſtated, it would not have been an anſwer to the Action; and, having heard all their Evidence, add this to their former Opinion, that they have totally failed to prove it in every Point; and where they ſhew their own Acts, they prove that they did not purſue the pretended Authority under which they juſtify. And this Opinion is not founded on any nice Points and Objections, but in the moſt material Circumſtances. To what paſt at the Monument of Shah Azum no Anſwer is given, either by the Juſtification or by the Evidence; but the Extract of the 3d April (M) ſubſequent to the Execution, is a direct Proof of what could only be collected from the Evidence for the Plaintiff, by Circumſtances. That the Hircarrahs who impriſoned the Plaintiff, were ſet over her by the Defendants, and continued "Mohoſſuls over her" on that Day; at which Time they were relieved by a Party of Sepoys, in conſequence of an Expreſs Order of the Council. Granting therefore, every thing alledged by the Defendants to be proved, yet a Judgment muſt be given for the Plaintiff, at leaſt for the One-fourth Part adjudged to the Widow, and not delivered to her for a Fourth Part of the Effects which they adjudged to her, and did not divide; and for her Expulſion and keeping her out from the Apartments which ſhe had a right to occupy as her Fourth, independant of Damages ſhe may be intitled to for the Outrage, Inſult, and Violence to which ſhe was ſubjected. As to all but the perſonal Outrages, Damages are not capable of any Mitigation; for they are for abſolute Property, Rights of which ſhe has been deprived by the Defendants. The Advocates for the Plaintiff have endeavoured to aggravate the Damages, by attempting to prove, not only her Poſſeſſion, but the Right to the whole Effects, by virtue of the Two Inſtruments produced on the Part of the Defendants, for the Purpoſe of proving them forged, and by laying great Streſs on Severities, Inſults, and Indignities which they contend the Defendants have offered to the Plaintiff; and this they further aggravate, from the Conſideration of the Sex of the Plaintiff; to which, among Muſſulmans (of which Religion both Plaintiff and Defendants are) great Reſpect and Attention is ever paid; and ſtill further, from the Rank both of the Plaintiff and her Huſband.

On the other Hand, if the Court are of Opinion, that the Defendants have not, by the Juſtification and Evidence given under it, ſhewn that the Plaintiff ſhould not recover at all, yet they contend that ſhe is entitled to ſmall Damages, beyond the Fourth Part of the Effects adjudged to her by the Decree,—Firſt, becauſe, though they may have acted irregular, yet through the whole Proceedings they acted, bono animo, and under the Orders of a Court; which, though not proved legal, notoriouſly exerciſed the Authorities ſet out in the Juſtification, that they did no more than carry thoſe Orders into Execution when they acted miniſterially; and that when they acted judicially, they did it to the beſt of their Judgment; that there are Proofs before us, if not of the Title of Behader Beg, yet ſufficient to ſhew that they did ſubſtantial Juſtice, by giving Judgment for the Father, Allum Beg, and making Behader Beg Truſtee for him; and that it was proved before them, that the Deeds ſet up by the Plaintiff were forged.

Second, That if there was not ſufficient Evidence before them at the Time of the Report, that thoſe Papers were forged, yet that they have proved them ſo before this Court; and if this is ſupported by Evidence, the Defendants ſtand on ſtrong Ground.

If it be proved that the Goods did not belong to the Plaintiff, that the Defendant Behader Beg is intitled to them, either in his own Right, or as a Truſtee for his Father; the Court would probably conſider whether they could not give Damages to be eſtimated, not by the actual Value of Things themſelves, but by the Detriment ſhe incurred by having Effects ſimply taken out of the Poſſeſſion of her to whom they did not belong, and delivering them to thoſe who had the Right to them. If the Second be proved, we ourſelves, feeling an Indignation at her Conduct, would make great Indulgences to the Defendants for any Irregularities, or even Acts of Violence which they might have been hurried into from the ſame Impreſſions, and would not be eaſily prevailed on to give her an high Recompence for thoſe Injuries of which her Iniquity had been the original Cauſe. Another Ground which does not go to the Merits, but which inſiſted on by the Defendants in Mitigation of Damages, is that the Rank and Condition of the Plaintiff is not ſuch as is ſet out by her Witneſſes; that ſhe could not derive any from her Huſband, he himſelf being originally a mean Man, that ſhe was not a principal Wife, but a Nikaw, who is of an inferior Eſtimation; and if ſhe could not derive it from him, ſhe was leſs intitled to it from her own Extraction or Habits of Life, for that ſhe was of a mean Family, and had been a common dancing Girl, that is tantamount to aſſerting, that ſhe had been a common Proſtitute, for it is notorious that the Two Profeſſions are in ſuch a Woman as they would deſcribe her to be, invariably united. To be ſure for Acts of perſonal Injury, the ſame Damages ought not to be given to the Noble as to the Mean, to the Virtuous and to the Profligate.

In conſidering the Damages I ſhall lay out of the Caſe, all thoſe Proceedings which were the mere Acts of the Patna Council, though it is impoſſible to paſs them all over (as they reſpect the Adminiſtration of Juſtice in which the Body of the People are concerned) without ſome Comments. For theſe Defendants can only be anſwerable for what has been done by themſelves.

Though the Obſervations already made are not narrow or confined to the Rules of Evidence of any particular Syſtem of Municipal Laws, but what would naturally ariſe to Men of common Senſe; yet for the Purpoſe of determining quo animo theſe Defendants acted, it will be neceſſary to examine theſe Proceedings ſtill more liberally than we did when we were enquiring whether their Acts were ſtrictly juſtifiable.

We will endeavour to find out what this Tranſaction really was, and for this Purpoſe we muſt tread the ſame Ground over again.

The only Petition of Behader Beg which was ever before the Council, ſtates his own Right to the Effects of the Deceaſed, which he claims as Heir by Adoption. The Complaint is no more than that the Wife of the late Khan, *being inſtigated by intereſted People for their own Purpoſes, has removed and ſecreted Effects.* The Prayer is, that he may have Hircarrahs, to prevent the Removal of the Goods, and to cauſe ſuch as have been carried away to be brought back, and that the Council will give Directions to the Cauzee to aſcertain his Right, and acquaint them therewith.—Zulficar Alli has ſworn that this Petition was wrote by Gullaum Muckdoom; if ſo, it is a ſtrange Circumſtance, that one of the Judges, who in the ordinary Courſe of the Cauſe was to determine on the Merits of the Petition, ſhould himſelf be the Perſon who drew it; but I do not lay much Weight on this Obſervation, becauſe I am inclined to think there muſt have been ſome Miſtake in taking down the Evidence; for the Witneſs goes on to ſay, that Gullaum Muckdoom did not ſhew it to either Party. Now there is no Reaſon that he ſhould not have ſhewn the Petition, at leaſt to the Petitioner; poſſibly the Witneſs meant, that Gullaum Muckdoom wrote *the Report*; and I believe the word Arzee, though properly tranſlated Petition, might as well be applied to the Report as to the Petition; for every thing addreſſed by an inferior to a ſuperior below the higheſt Rank, is called an Arzee; and it may be proper not to ſhew the Report to the Parties before it was delivered in to the Council. I happened to be juſt gone out of Court when this Evidence was given, and neither of the Judges have any particular Recollection of it. There is nothing in this Petition, either by expreſs Words, or by Implication, that has the leaſt Alluſion to any excluſive Claim to the Eſtate having been made by the Widow, rather the contrary; for removing and ſecreting are not the Acts of Perſons ſetting up a Title, much leſs is there any Charge that the Begum had ſet up falſe Deeds to ſupport her Claim.

Thoſe who adminiſter Juſtice ought to know nothing in a Cauſe by private Communication of the Parties, or their Agents; all their Knowledge ſhould be derived only from that which appears fairly and openly in the Courſe of Proceedings.—It appears by the Order (H.) made on reading the Petition, that the Council were ignorant that any excluſive Claim was ſet up by the Begum.—Theſe are the Words of the Order: "Agreed, that Directions be given to the Cauzee and other Law Officers, according to the above Petition, to take an Account of the Eſtates, and all other the Effects the Deceaſed, died poſſeſſed of, to cauſe them to be collected together, and placed under their joint Charge, together with Behader Beg Khaun, and a Perſon on the Part of the Widow, *till a Diviſion can take Place*; and that they do *allot the Shares of each Claimant*, ſtrictly adhering to the Muſſulman Laws of Inheritances, *and give in* to us an Account of their Proceedings." The Council (in the ſame Manner as we ſhall hereafter ſee the Cauzee and Muftees did in their Report) admit the Aſſertion of Behader Beg for Proof of his Right; but as by the Mahomedan Law, with which it is almoſt impoſſible theſe Gentlemen ſhould be totally unacquainted, as far as it regards the Widow's Right, Widows are intitled to ſome Share of the Effects of their deceaſed Huſbands, they proceed upon the Idea of her only poſſible Claim, being that of a Widow, and therefore conclude that there muſt be a Diviſion. The Order therefore commands, that the Effects ſhould be ſecured till—what?—till *a Diviſion* can take place. By this they adjudged, that more Claimants than One were intitled to Shares, and then they proceed to direct, that an actual *Allotment* of the Shares of *each Claimant* be made. So little did they apprehend that the Begum had any other Claim, or that any Matter was in conteſt between the Parties, that they do not give her Opportunity of ſetting it up. They do not direct that ſhe be called on to anſwer the Petition, or to ſhew her Title; it does not direct that the Cauzee and Muftees ſhould, according to aſcertained Facts and legal Juſtice, tranſmit a Report to the Council; but only, that having done what they were ordered to do, "they ſhould give in an Account of their Proceedings." From the Order itſelf, and becauſe the Council ought to have known that there was a Diſpute about the Property, we conclude they did not; and the more ſo, becauſe, if they did, they have prejudged it; for they have ordered a Diviſion and Allotment of Shares, which was inconſiſtent with her Claim to a ſole and excluſive Right. But however ignorant the Council may have been of this Claim, thoſe who drew the Perwannah, which can only be warranted by the Order, moſt undoubtedly were not; and as that Perwannah is in Perſian, no doubt it was drawn either by the Cauzee or Muftees, or their Clerks. Read the Perwannah exhibit (S); this Perwannah ſtates, what could not be learnt from the Petition, that Behader Beg and the Widow "are *diſputing about the Property* of the Effects." By what Means did this come to their Knowledge? They ſhould have only learned it from the Petition and Order; no intermediate Proceeding could have been had, the Petition, the Order, and the Perwannah all bear Date on the 2d January.

Though Behader Beg complained only of the ſecreting and removing the Effects, he had been appriſed of the Begum's Claim as early as the 13th December. Though this Claim was known by the Cauzee and Muftees, in the Perwannah no more than in the Order is there any Proviſion made that ſhe ſhould be ſummoned, or that ſhe be called upon for any Anſwer. The Perwannah does not follow the Order. The Order directs, that the Goods ſhall be ſecured till a *Diviſion*, without mention or thought of any Trial; the Perwannah, until the Time of the *Trial and Deciſion.* The Order directs an actual Diviſion of the Effects, and the Allotment of Shares; the Perwannah, not that they ſhould divide and allot, but ſpecify in Writing, "how much is to be given, and to what Perſon."

The Order directs ſimply, that they give in an Account of their Proceedings; the Perwannah, "that, according to aſcertained Facts, and legal Juſtice, you tranſmit to the Council a written *Report on this Cauſe.*"

The Perwannah proceeds on the Idea, that there was a Cauſe, and that there would be a Trial; the Order that the Council were doing no more than preventing the Embezzlement of the Effects, and aſcertaining the Proportions which Behader Beg would be entitled to as Heir, and the Begum as Widow to the Deceaſed. What the Cauzee and Muftees did miniſterially under the former Part of this Perwannah, before they prepared their Reports, has been already related. Whether they acted bono animo in this, or did wantonly and knowingly exceed their Authority, muſt depend on the Nature of the Acts done, and the Orders they received. Admitting, though not within the Words of the Perwannah, that before the taking the Inventory, it might be proper to place Peons and Hircarrahs to prevent the Effects being carried away; yet it would anſwer no Purpoſe of Juſtice to deny, at leaſt free Ingreſs, and not Egreſs, to the Family.

As Women of Rank cannot be ſeen by Men, without Breach of Decorum and Injury to their Honour, it might be reaſonable to deſire her to retire from the Apartments where the Effects were depoſited, till they took the Inventory; and, if the Council had a Right to make the Order, even compel her, if refractory. But after they had by Threats, Perſuaſion, Promiſes, and even Oaths, that they would ſtay no longer than for that Purpoſe, induced her to leave them, how do they reconcile it to good Faith to refuſe her Admittance after it? How to Juſtice, as ſhe was at leaſt intitled to a Part of the Houſe as a Widow? If it might be decent and proper to ſubmit a Lady of her Quality to perſonal Search, was it not an high Outrage to attempt to ſubmit to the ruffian Hands of Peons and Hircarrahs?

Could it be unknown to theſe Law Officers to what Acts of Deſperation Women of leſs Rank than this Lady have been driven to by leſs Indignities? How are theſe Acts, the driving her into an Outhouſe, the turning her naked and friendleſs into the public Buzar, and the ſeveral Barbarities exerciſed towards her at the Monument of Shah Azum, reconcileable to common Humanity? Could theſe Acts proceed from Miſtakes? any Miſapprehenſion of the Perwannah? Nothing can be more explicit. Theſe are the Words: "It is written, that you the Cauzee and Muftees, having ſent People on your own Part, together with Perſons, the Vakeels of both Parties, and having made a due and exact Inventory of all the Goods, Effects, ready Money, Houſhold Stuff, Dwelling Houſes, Ulturnghaw Lands, &c. the Eſtate left by the deceaſed Khan; and having enquired for and carefully collected ſuch Part of his Money and Goods as may be diſperſed; and having locked them up in a Place, and having affixed your Seals on them, do there ſtation and place People to watch on your Part, and on that of the Parties, in order that no one may be able to embezzle them until the Trial and Deciſion."

This is the whole Authority, to take an Inventory, collect, and ſecure the Effects, and place a Watch over them to prevent their Embezzlement. What is there in this Order ambiguous or equivocal? Can any, I will not ſay fair, but forced Conſtructions be put on it, which can give even a Colour of Juſtice to their Proceedings?

Could the collecting and ſecuring the Effects authorize perſonal Search of the Widow? Could it authorize the ſtripping her (who was certainly intitled to a Share) of Covering and Bedding?

Could the locking up of diſperſed Goods in a Place, authorize the ſhutting, if not the Miſtreſs, certainly the principal Lady of the Family, and all her Relations and Attendants, entirely out of the Houſe?

That this Act might not be equivocal, they not only lock out of the Houſe, but order her to quit it. They are indeed ordered to take Charge of the Goods and Effects, and prevent their being removed or ſecreted, but could this Order extend to the Houſe? is that a Property capable of being ſecreted, or embezzled, or removed?

Is there any thing in the Order which authorizes the Breach of that religious and anxious Decorum, 13 which is ever practiſed to Women of any Rank and Condition among Mahomedans? We have been taught, that the moſt regular and quiet Execution of our Proceſs, by our ordinary Officers, in Caſes where the Juſtice of the Caſe is clear, if a Mahomedan Lady is concerned, would be an Outrage not to be borne; and that in all ſuch Caſes, by the Mahomedan Law, Women are employed for the Purpoſes of Juſtice. Had our Proceſs been ever exerciſed in a Manner ſimilar to this, it would have been a fruitful and a fair Source of Clamour againſt the Court, by thoſe, who feeling their Powers cramped by it, and apprehending its Juſtice, are deſirous of getting rid of it. But we have now ſat about Four Years, and however full the Conſultations of the Company's Servants may be of Repreſentations of what they eſteem Miſdemeanours in our Officers (for even the Civiliſt Letters from Attornies, acquainting Parties before Actions brought, of the Demand made againſt them, having been ſo deemed) yet but one Complaint has been made againſt them to the Court, and that I ſet on foot myſelf. It was not a very ſtrong Caſe; but I was reſolved to keep the Fountain of Juſtice clear.

If then there is no Ambiguity in the Orders, could theſe Acts be done bono animo? On the contrary, the Perpetrators of them muſt have known them to be not only unauthorized, but wantonly and ſcandalouſly oppreſſive, malicious, and outrageous, from which they might reaſonably expect a moſt tragical Concluſion. Had they thought they had acted right, why inſiſt on a Razanamah from the Plaintiff at the Monument. A Razanamah is an Inſtrument, by which, the Perſon who executes it aſſerts, that every Act that had been done was with her Good-will, Pleaſure, and Conſent. After all this cruel Treatment, this Inſtrument was demanded of the Plaintiff. It puts us in mind of a Defence, ſimilar to what was intended to be procured from the Plaintiff, which was ſet up in ſome Cauſes from Dacca, where Plaintiff had proved, that for the Purpoſe of extorting Money, the Defendants had hung them up with their Heels downwards; had picketted them in the Sun at Noon on Bricks cut to ſharp Points; had pinched their Noſe and Ears between ſplit Bamboos, and had uſed divers other Species of Tortures. The Advocate for Plaintiff undertook to prove that the Whole had been done by the Conſent of the Defendants. The Witneſſes indeed did not appear.—The Court had intimated their Opinion of the Defence.—Have they acted better in their judicial than they have in their miniſterial Capacity? As to any Proceedings to a Trial or Deciſion, or any Aſcertainment of Facts, all the Account of it is, that the Cauzee put this Queſtion to Coja Zekereah, On what Grounds does the Widow found her Title? The Anſwer of Coja Zekereah, and what paſſed in conſequence of it, has been before related.

The only Perſon proved to have been interrogated beſides Coja Zekereah, is Newauz Ali. The only Perſon, except the Petitioner, making any Allegation or Charge, is Zulficar Alli.

Does this bear any Reſemblance to a Trial? Was it ſufficient to form a Deciſion? Was it ſufficient to authorize a Report, required to be according to aſcertained Facts and legal Juſtice? It does not appear, nor do I believe the Truth to be, that the Cauzee and Muftees, who were to hear, try, and determine this Cauſe, if they ever had an Authority ſo to do, ever met regularly for that Purpoſe. Kurreen Ullah, himſelf, a Muftee, and one of the Judges, does not ſpeak of this as a Proceeding in a Cauſe.

He recollects it as an ordinary Circumſtance; he ſays that he remembers that Cauzee one Day came and aſked Coja Zekereah. Had it been a Proceeding in a Cauſe, would he have thus related it? would he ſay, that he *remembered the Cauzee one Day* (ſtating it as an ordinary Occurrence) aſked Coja Zekereah? Is it cuſtomary, when Judges are met to hear a Cauſe, for a Judge to go to the Witneſs, and not to have the Witneſs called before the Judge? Yet this is the whole Account given previous to the Report. All this Defect of Evidence is endeavoured to be ſupplied by the Report itſelf.

A Record of a Proceeding before a Court of competent Juriſdiction, is no Doubt while it remains in force, I mean by that unreſerved either by Appeal or Error, full and compleat Evidence in Action brought againſt a Judge for any judicial Act, not only of the Truth of the Facts contained in it, but might be pleaded in England, and given in Evidence here under the Rule for giving the ſpecial Matter in Evidence on the General Iſſue as a Bar to the Action. We are, as the Court declared in the Opinion delivered on the Juſtification, not in the Caſe of a Cauſe tried before Judges for a competent Juriſdiction, but where Judges having ſuch Juriſdiction, have, without Authority, delegated it to others. We are, as is the Caſe of a Proceeding abſolutely coram non Judice; by that Opinion, we affirmed the Powers of the Provincial Courts, and in conſequence, their Judgments, when they are really theirs, and not thoſe of their Subſtitutes. We hope to force them in whoſe Hands we expect Juſtice to be better executed, to take on them, as they ought, the Adminiſtration of it; this Report of the Cauzee and Muftees can in no Senſe be called a Record of Judges having competent Juriſdiction, and it is impoſſible to receive it in Evidence as a Proof of the Facts contained in it.

It is no more than an Account of this Buſineſs, ſtated and fabricated by the Defendants themſelves, for the Purpoſe of carrying into Execution theſe very Acts, which the Plaintiff complains of. It is no more than what the Defendants have ſaid, and that cannot be given in Evidence for the Defendants, though it may againſt them. The Proceedings of the 20th January, verified by Mr. Young, are a Proof that the Cauzee, &c. made a Report, but is no Proof whatſoever that the Facts recited by the Defendants in that Report are true.

They, as well as all the Proceedings to the Trial and Deciſion, were capable of Proof, if true. The ſeveral Perſons mentioned in the Report might have given their Evidence in this Court; and the Muftee Kurreen Ullah, who ſigned it, might have verified the whole upon Oath before us; and his not doing it, is very extraordinary, for I obſerved at the Trial, that the Report itſelf could be no Evidence of the Facts aſcertained in it.

This is the moſt material Paper, and in conſidering it, I ſhall examine whether (ſuppoſing the Matter of it to be referred, and the Facts ſtated in it, though not proved, to be real Tranſactions) on their own ſhewing, they had Grounds to determine the Right in the Plaintiff or her Father, and to pronounce the Papers on which the Begum founded her Claim, to be Forgeries; and whether, in either of theſe Determinations (not taking into Conſideration the Education, legal Knowledge, and Practice of theſe Law Officers, but only giving them Credit for common Senſe) there is any Poſſibility they could have acted according to the beſt of their Judgment? This is a curious Performance. Had it Marks on it only of Folly and Ignorance, we ſhould lament, not only that a Cauſe of this Conſequence, but that the vaſt Property of the Inhabitants of the rich and opulent Province of Bahar, ſhould be ſubjected to the Judgment of ſuch weak Men; but we fear we ſhall be obliged to deplore that it is delivered over to Rapine and Violence of wicked inhuman Oppreſſors. That they ſhould be mean, weak, ignorant, and corrupt, is not ſurprizing, when the Salary of the Principal Judge, the Cauzee, does not exceed 100 Rupees per Month; the Five Muſtees, who compoſe the other Members of the Bench, are maintained for that Time altogether of 120 Rupees. Theſe may be proper Officers to execute Proceſs, which is deſcribed to be Part of the Duty; but the Government of this Country could never intend that the Adminiſtration of Juſtice ſhould be committed to them. This State of public Juſtice is, we fear, one great Cauſe of the Miſery of the Inhabitants, and the Deſertion of the Provinces.

I doubt whether there is a Country exiſting, how barbarous ſoever, where there is the leaſt Idea, I will not ſay, of the Forms of Principles of Juſtice, of Honeſty, whatever did or ever will produce its Parallel.

What had been kept back from the Knowledge of the Council, appears, by the Extract of the 20th January, (L) which contains this Report to have been (by no Means this Court are acquainted with) made known to the Council.—The Entry is in theſe Words: "The Cauzee and Muftees now deliver in the following Report on the Right of Inheritance, claimed reſpectively by the Widow and Nephew of Shawbaz Beg Khan, to his Eſtate and other Effects."—By this, it for the firſt Time appears, that the Council were apprized that there was a Diſpute between the Widow and Behader Beg about the Inheritance. The Council could no more than the Cauzee and Muftees, have acquired this Information from any thing that is diſcloſed in the Proceedings; and if any Proceeding really was had, by which the Council were informed of it, that has not been entered on their Books or Records.—This is not very ſurprizing, for the Proceeding proved to be had when Coja Zekereah was carried before the Council, and delivered the Deeds to Mr. Law, is likewiſe not entered on their Conſultations.

I now come to the Report itſelf.—Read it.

The Caption of it is, the Report of the Cauzee and Muftees appointed on an Enquiry relative to the Right of Inheritance, claimed reſpectively by the Widow and Nephew of Shawbaz Beg Khan, to his Eſtate and Property. This Caption is falſe. They were not "appointed" on an Enquiry relative to the Right of Inheritance claimed reſpectively by the Widow of Shawbaz Beg Khan; no Claim had been made by the Widow; they could not have been appointed for that Purpoſe; for at the Time of the Appointment the Council did not know that a Claim was in Contemplation. But though this ſtated that which the Council knew to be falſe, they nevertheleſs acquieſced in it, receive the Report, and carry it into Execution.

The Caption does not ſtate what the true Reference was. It was relative to the Enquiry into the ſecreting and removing the Effects of the Deceaſed by his Widow, the ſecuring them, and alloting the Shares to the Claimants. The original Petition is laid aſide by the Cauzee and Muftees, and the Allegations of Behader Beg and Zulficar Alli, as ſtated in the Report, and not in the Petition, are the only Matter examined to by the Cauzee and Muftees.

Behader Beg abſolutely deſerts all that Part of his Petition by which he complained of the Begum any Juriſdiction to the Court over her. He neither alledges himſelf, nor produces any Witneſs of removing, ſecreting, or embezzling the Effects. He inſiſts on his Title, as in the original Petition; but makes a new Charge, that ſhe ſet up a Title by Forgery; and this new Charge is in ſome Meaſure incompatible with the former.

That the Widow ſet up a Claim to the whole was, as we before ſhewed, known to Behader Beg Three Days after the Death of Shawbaz Beg Khan, and he at that Time did not diſpute it, for that is proved, and though it paſſed before many Witneſſes, is not controverted. Though he aſſented at the Time, if by any new Information he diſcovered what he thought was juſt to be a fraudulent Claim, he certainly would not be precluded from conteſting it with the Widow; but it is extraordinary if he thought it juſt at the Time of the Petition, that he ſhould accuſe her of removing and ſecreting Effects, which in that Caſe would be her own, and that falſely; or, if he thought it fraudulent, that he did not make that his Charge, eſpecially as by that Claim he was moſt injured; for that did not go to purloin Part, but to bar him from the Whole of Inheritance.

But it ſeems it was ſufficient to have ſome Petition before the Council, and ſome Reference made to the Cauzee. Any would anſwer the Purpoſe; and it certainly is indifferent what it was, if the Examination was not to be confined to the Petition, nor the Deciſion to the Reference.

The

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The Report itſelf ſet out with ſtating the Allegations of the Petitioner in the Support of his Claim.

He ſtill Claims in his own Right, and inſiſts on his Title by Adoption; then ſtates Shawbaz Beg Khan's Declaration, that Behader Beg was Nephew and adopted Son and Heir to all that he had.

That he was introduced as ſuch to the Gentlemen in Council at Patna and Calcutta.

That in conſequence of it, the Governor General had preſented him with a Kellaut and Two Shawls.

Behader Beg in his Allegations, as well as in his original Petition, reſted his Right on a parole Adoption, founded only on a Declaration of Shawbaz Beg Khan to Behader Beg, and that not ſet forth to be before Witneſſes. There is no Evidence before us, that ſuch a parole Declaration, without any Solemnities whatſoever, if proved, would be a ſufficient Adoption to convey the Inheritance: Nor have the Cauzee and Muftees taken on them to ſay ſo. Do the Words as ſtated in common Senſe amount to an Adoption? Does Shawbaz Beg Khan by what is averred by the Defendant, himſelf intend it? The Petition, though the Report does not, ſets out what the Declaration was. "You are my Brother's Son, there is no Difference between my Brother's Son and a Son. I make you the Maſter of my Houſe. You are my Deſcendant. Whenever you may be acquainted with every Thing, having given every Thing into your Care, I will go to Kabool."

The Tranſlation of this Petition is by as accurate a Gentleman as any in the Service; and I have likewiſe read it with my Moonſhee, and it clearly conveys the Senſe of the Perſian *Original*.

Where is there any thing in this Declaration that amounts to an Adoption? Does he ſay, that I adopt you as my Son, and you ſhall inherit my Property? Has he done any thing in Excluſion of his Brother, ſuppoſing him to be his Heir? No: All that he ſays is this: My Brother's Son, I having no Son, is in Place of a Son to me. Is this more than an Expreſſion of Affection? Is it not equally affectionate to the Brother as to the Brother's Son? Can any thing to the Prejudice of the Brother be collected from it? Does he ſay Behader Beg ſhall be his Heir? No: He ſimply calls him his Deſcendant. Does he ſay he ſhall inherit? No: All he ſays is, "I make you Maſter of my Houſe."—Was he ſo?—"When you are ſufficiently inſtructed, I will deliver every thing to you"—What, as his Property? No—"in Charge; and I will go to Kabool." Does he ſay he will never return? If that is underſtood, then it is not the Appointment of an Heir, but immediate Gift of all his Property, whenever he ſhould go to Kabool: And that a Gift even in *Writing* without Poſſeſſion delivered, is not ſufficient to convey Effects, is inſiſted on by the Defendant Behader Beg, and allowed by the Cauzee and Muftees. Was there any Poſſeſſion delivered under this Parole Gift? On the contrary the Begum was in Poſſeſſion at the Death of Shawbaz Beg Khan, and had been ſo long before; for all the valuable Effects were kept in her private Apartments, in the Life of Shawbaz Beg Khan.

What we have ſaid goes on the Suppoſition, that what is alledged by Behader Beg, was proved before the Cauzee and Muftees; but that reſts only on his Allegation, and not a Tittle of Proof is ſtated to have been adduced to ſupport it, nor is there any Proof whatſoever, that Shawbaz Beg Khan made him, as he declared he would, the Maſter of the Houſe.

Was any Evidence given, of that which in the Report is ſtated as Proof, that Shawbaz Beg Khan, had treated him as his adopted Heir. It ſtates it to be a Matter of notoriety. "It is well known to the Engliſh Gentlemen." Why then was One at leaſt produced before the Cauzee and Muftees? Why not One before us?

What Witneſſes proved to him that Shawbaz Beg Khan uſed frequently to declare before Men of acknowledged Credit, that Behader Beg was his Nephew and adopted Son and Heir to all that he had? Not one of theſe Perſons of acknowledged Credit were produced; where are they? Who were they? Even that is ſtated. Yet it was "frequently declared." Who proves that Behader Beg was introduced as adopted Son to the Gentlemen in Council at Calcutta and Patna?

Who proves, that in conſequence of it he received from the Governor a Killaut and Two Shawls? But all this was capable of Proof, and of eaſy Proof. It might not be expected that the Governor General or any Member of the Council ſhould be called from Calcutta to attend theſe Cauzees and Muttees; but Killauts and Shawls, on Occaſions like theſe, are not given away in private. Why was not one of their numerous Attendants called there for that Purpoſe? Surely the Matter in queſtion, conſidered criminally or civilly, was of ſufficient Conſequence. If it was too far to call theſe Witneſſes to Patna, why were none of them produced in the Court; the Governor General has been a Witneſs in other Cauſes.

Why did not the Gentlemen of Patna give Evidence of his being introduced to them as adopted Son and Heir at Law? They were on the Spot. Is it becauſe it was a Fact in the Knowledge of the Gentlemen of the Council and the Cauzees and Muftees? Will they ſay ſo? Can they ſay ſo? And if the Council, Mr. Droz and Mr. Young, and they the Muftees, Kurreen Ullah have been examined before us, why have they not ſaid ſo? If they cannot, which we muſt preſume becauſe they have not, the Cauzee and Muftees have had the Boldneſs to ſtate to the Council of Patna a Fact on which they ground their Determination, which the Gentlemen of the Council know not to be true; and, what is more extraordinary, thoſe Gentlemen aſſent to it?

With regard to the Title of the Father of Behader Beg, whether he was Brother to the Deceaſed, whether he was his Elder Brother, whether he was Heir at Law, whether he was dead, or whether he was alive, whether he had other Sons than Behader Beg, whether he had an Elder Son? All is without Allegation or Proof. No Proof then was adduced of any Right, either in Behader Beg or his Father.

Yet the Judgment adjudges a Right to be in both; for it declares that the Father is his legal Heir, and Behader Beg his adopted Son: And what is the Reaſon given for it? not that either is proved, for that is not aſſerted; but becauſe the Story of Behader Beg appears clear and explicit. Here then, on their own Statement, the Judgment is given merely on the Allegation of the Party. The Council of Patna have likewiſe aſſented to this, viz. that a Plaintiff's Story, though unproved, if clear and explicit, by which I underſtand a well told, is ſufficient to maintain a Title. Whether this Story was or was not before the pretended Vakeel of the Begum, does not appear; and to this Tranſaction they have given no Date.

If any of theſe Facts were true, and known by the Cauzee and Muftees ſo to be, they muſt have come to their Knowledge by ſome Communication, which it is apparent they had independant of that which is ſet out on the Report.

I have ſeparated the Proof of Behader Beg's Title from the Examination into the Title of the Begum, and the Evidence of the Forgery ſtated in the Report, becauſe, if Behader Beg had not a Title, there the Cauſe ought to ſtop. He complained originally of the purloining of the Goods, and that only; If they were not his, if he failed in proving them to be his, though it had been true that ſhe had purloined them, yet there was an End of that Complaint; for he was not injured by it. The Cauzee and Muftees indeed ſtate, that he complained afterwards before them, by Allegations entered in the Report, that the Begum had procured a forged Will and Deed, to deprive him of his juſt Inheritance. On the Failure of the Proof of Behader Beg's Title to the Inheritance, there was equally an End of this Complaint; for if he had no Title to their Inheritance, he could not be injured by the Forgery, and had no Right whatſoever to impeach the Begum's Title, or invade her Poſſeſſion of the Goods; but as the Cauzee and Muftees, though authorized to aſcertain the Right of Behader Beg only, and not the Right of any other Perſon, have entered into that which, ſitting in a Civil Court, they had no Pretence of Right to examine into; we will follow them, and ſee in what Manner the Widow's Title was impeached before them, and on what Grounds they have declared it to be founded on Forgery.

I take no Notice of the Mohurnama, or Marriage Settlement, becauſe I do not ſee how it could have any Effect in the Determination of the Cauzee and Muftees, except perhaps, as to the Proportion of Effects which ſhe, as Widow, ſhould be entitled to.

The Firſt Attempt to impeach the Title of the Widow is on the ſame Grounds as that by which Behader Beg's Title was ſupported by the Allegations of Behader Beg, and they are equally taken as true in this Inſtance as in the other, without any Evidence to confirm them. To make my Obſervations intelligible, I muſt premiſe that the Hebenamah, which is in Nature of a Deed of Gift, is, through ſome unaccountable Miſtake in the Tranſlation, called, through the whole Report a Will, and the Ekrauram, which is in Nature of a Confirmation or Releaſe to Perſons in Poſſeſſion, is, called by a like Miſtake a Deed of Gift. Theſe Miſtakes are adopted by the Council all through the Proceedings. Conſidering then the Hebenamah as a Will, the Firſt Allegation is, that "had Shawbauz Beg Khan bequeathed any thing to his Widow, the Bequeſt would have been atteſted by the Law Officers, and witneſſed by himſelf as Heir." Could this be a Cauſe to impeach theſe Deeds?

This was not a Bequeſt to the Widow. Whether ſuch Solemnities were neceſſary to effectuate a Will, is not material; and that they were, there is no Evidence, much leſs is there that they are neceſſary to the Validity of an Hebenamah and Ekrauram. It is not alledged that they are. As the Cauzee and Muftees are Lawyers, there could be no Neceſſity to prove it before them. They do not ſay it in any Part of their Report. The contrary is implied, by their making the Want of them no Grounds for their Determination. The contrary is proved by the Evidence of Cojah Zekereah, who is likewiſe a Lawyer, and the only Perſon examined to this Point by the Defendants.

If the Heir ſhould have witneſſed it as a Petitio Principii, that he, Behader Beg, was that Heir; to enforce this, Behader Beg further alledges, That the Deceaſed had bequeathed a Houſe, and ſome Begahs of Land, to Molowy Jemaul ud Deen, which Bequeſt had the Atteſtation of the Law Officers, and written in the uſual Form; that therefore, had a Bequeſt been made in favour of the Widow of the Deceaſed, certainly it would have been made in the Manner before deſcribed.

Though it is meant to be inſinuated, it is not averred, that the Bequeſt to the Molavy was ſigned by the Heir.—There is no Proof of it. Why was not the Molavy called before the Cauzee and Muftees, and the Paper produced, if it was neceſſary the Heir ſhould ſign it? By that it would have appeared, whether or no Shawbaz Beg Khan had really conſidered him to be that Heir.

The next Allegation, is an Obſervation of Behader Beg, "That, had the Widow any genuine Deeds of Gift from the Deceaſed, ſhe would have produced them within Three Days after her Huſband died."

Behader Beg calls them here Deeds of Gift, though he before drew his Arguments from Bequeſts. There is no Proof that it was neceſſary to produce them. The Law Officers don't ſay ſo. It is no Part of their Determination againſt the Deed.

There is no Proof before us, that on that Day Behader Beg was apprized of the Widow's Claim. If he had a Right ſo to do, and they ought to have been produced, why did he not, claiming as Heir, demand a Sight of the Inſtruments on which ſhe made her Claim? On the contrary he acquieſced; and if he had a Right to ſee the Deeds, he clearly waved it.

This is all that is ſtated to have been alledged, and nothing is ſtated to have been proved, when the Evidence of the Defendants was gone into, at what Place, at what Time, and before whom;—whether in the Preſence of the Begum, or of the Perſon they pretend to be her Vakeel, theſe Allegations were made; whether ſhe or the Vakeel were ever acquainted with them, does not appear. But, under all theſe Circumſtances, though no Right whatever was proved in Behader Beg, and though no Charge of Embezzlement or Forgery was eſtabliſhed againſt the Widow, yet Witneſſes for the Defendants are examined. Though it does appear when the Allegations of Behader Beg was received, yet it does when the Witneſſes for the Widow were called on.

Having cloſed the Allegations of Behader Beg, the Report goes on to ſay, that on the 27th of Zeniad, 1190, that is, on the 8th January, 1777, Cojah Zekereah was examined.

By this Circumſtance it appears, that the Allegations of Behader Beg were not taken on the ſame Day that Zekereah gave his Teſtimony. As there was no Summons, no Notice proved to be given to the Widow, ſo likewiſe the Depoſitions ſtated to be taken on her Part, are received without any Plea or Allegation from her. Cojah Zekereah, by his Depoſition, proves the Execution of what is called the Will, by Shawbaz Beg Khan, on the 10th Ramzaun, and of the Deed of Gift on the Day following.

The next Day, the Report ſays, "they were produced, atteſted under the Seal of Cojah Zekereah, Ghyrut Beg, Ennayut Ullah Beg, Cawzee Mhozyum, and Mahomed Ewauz. Ennayut Ulla Beg, who was then preſent, was aſked as to the Authenticity of the Will. He declared it to be a true one, and to be written out by Newauz Alli. Cojah Zekereah ſpoke to the ſame Effect." They were examined to the Hebenamah only; and no other ſubſcribing Witneſs was called upon or ſent to. Thus the Matter reſted, without further Examination, till the laſt of Zecaud, when Cojah Zekereah is ſaid to declare, that "the Papers abovementioned (i. e. the Marriage Settlement, the Hebanamah and Ekrauram) were the Grounds on which the Widow founded her Claim."

As far as they choſe to examine to theſe Deeds, they ſtood proved, and by the beſt Evidence, that of ſubſcribing Witneſſes. If it be ſaid they were not examined on Oath, and it was ſimply Allegations, why were they not examined on Oath? They were both preſent, and ready to prove, but the Cauzee and Muftees did not inſiſt on their Oaths.

The firſt Perſon who impeaches the Deeds is Zulficar Ally, the Vakeel of Behader Beg, who depoſed, that the Will and Deed of Gift aforeſaid, had been forged after the Death of the deceaſed. Zulficar Ally was not on Oath. Is this to be conſidered, as it is ſtated, to be a Depoſition or an Allegation of the Vakeel of the Party?

If a Depoſition, it is on a Subject of which Zulficar Ally had no Knowledge: If an Allegation, where are the Proofs? Zulficar Ally does not pretend to prove the actual Forgery by poſitive Evidence.—He reſts it on the Preſumption which ariſes from Three Circumſtances, 1ſt. He ſays "That ſoon after the Death of Shawbaz Beg Khan, there was another forged, which had been produced, atteſted with the Seal of Syed Mahomed Khan, a Relation of Arab Ali Khan, and deſired to know what was become of that Paper." Whether or no the Cauzee put that Queſtion to Cojah Zekereah does not appear, or, if he did, what the Anſwer was. That they ſuppreſſed ſo leading a Queſtion is very extraordinary. It is unfortunate; for the Anſwer if given, would go a great Way to determine whether the preſent Defence of Cojah Zekereah is true or falſe.

2dly. "That Pains had been taken to procure People who could prevail on themſelves to witneſs them; and that Men of Character had refuſed to do it."

"He alledged, theſe Two Papers (the Will and Deed of Gift) to have been forged, ſubſequent "to the other Forgery." To prove all this, he names his Witneſſes—who? Meer Ameer-ud-Deen, Selaubut Cawn, Haukeem Hauely Ally Cawn.

The Third Circumſtance is "Ghyrut Beg Khan, one of the Witneſſes to the Will and Deed of "Gift, had acquainted Malcolm, an Armenian, a little after the Death of the Deceaſed, that Shawbaz "Beg Khan had left behind him no Paper of Bequeſt to any one?" What mode is purſued to try the Truth of theſe Aſſertions?

Out of all the Witneſſes named, Selaubut Khan is only examined, and not on Oath. What is his Evidence? "That 12 Days ago Cojah Zekereah came and deſired him, as he had a Seal, to atteſt a Paper; that he replied, he had not his Seal about him, and did not therefore atteſt the Paper." Here the Examination is dropt. Why is he not aſked, what Paper it was he was deſired to atteſt? His Evidence is only a Paper. How does it appear, that the Paper he ſpeaks of was the preſent Hebenamah or Ekrauram, or bore any Relation to the Buſineſs, or was a forged Paper? Was Selaubut one of thoſe Men of Character who had refuſed?

What was his Reaſon for refuſing? not that he thought the Act improper, but that he had not his Seal about him, and that therefore he did not atteſt it. That being his only Reaſon, as far as can be collected from ſo incomplete an Examination, Selaubut would have ſealed if he had his Seal about him; he thought it would have been an innocent Act to atteſt the Paper, which it would not have been if that Paper had been either the Hebenamah or Ekrauram, or any Paper purporting to be the Deed or Will of a Perſon then dead. If he was called to the Paper which had Syed Ahmud Cawn's Seal to it, he aſcertains no certain Paper, nor what its Purport was.—It would not be the only Witneſs then called to prove; the Allegation of Zulficar Ally does not ſupport them. This Man happened to be preſent.

What afterwards was done? Were the other Witneſſes named by Zulficar Ally, required to attend? Are they examined on Oath? Are their Depoſitions taken before the Cauzee and Muftees, ſatisfy themſelves, by ſending Notes to Witneſſes, and receiving from them written Anſwers by Notes, or verbal Anſwers by Peons. This conſidered as a Law Proceeding, is too contemptible to deſerve a ſingle Obſervation to condemn it. But before Judges who not only admit but themſelves introduce Matter like this to found their Judgment on, whoſe Property, whoſe Life can be ſafe? The Engliſh Gentlemen, adviſed by the Law Officers, think this good Evidence, they alone may give ſome Idea of the Adminiſtration of Juſtice in the Provincial Courts.

It does not appear, That the Widow of Zekereah were ever acquainted with the Queſtions put or the Anſwers given to theſe Queſtions.

Are Notes ſent to all the Witneſſes? They are only ſent to Syed Ahmud, Cawn Meer ud Deen, and Malcolm. To Hautim Haudy Alli Khan, no Note is ſent.

What the Queſtions propoſed in the Notes were, and by whom dictated, we are not informed. What are the Anſwers.

The Bearer of the Firſt returned with a verbal Anſwer, for Meer Ameer Uddeen, acquainting them, "That he did not affix his Seal to the Papers alluded to." Thus far then nothing is proved even by Notes. Syed Ahmud Khan's Note arrived, purporting, that he had affixed his Seal to an atteſted Will; but had no Knowledge otherwiſe of any Papers of the Deceaſed. What this Note was, or how the Purport was collected, the Report does not adviſe us. It is not ſtated, whether by the atteſted Will the Deed now in queſtion, or any other, is meant, nor when he affixed his Seal. Whether before or after the Death of Shawbaz Beg Khan. This then, as far as it then went, was in Proof; but Cojah Zekereah had affirmed, that the Seal of Syed Ahmud Khan had been affixed to the Copy of the Will, whereupon a Second Note was ſent to him (Syed Ahmud Khan) deſiring to know whether his Seal had been affixed to an original or a copied Will; to which he replied, "that after the Death of the Deceaſed in the Month of Zaudie, he had affixed his Seal to an original Paper; that he did not remember who were the

Witneſſes that had atteſted it; but that if he ſhould hereafter recollect their Names, he would not fail to inform us."

Whether this Reply was by Note or verbal Meſſage, does not appear.

Though this Man, now turned out to be a material Witneſs, yet he is not ſent for, and no more Queſtions are put to him; no Note is ſent to him to know, whether the original Paper he now mentions, was the ſame as he before called an atteſted Will; no further Examination is made as to the Names of the Witneſſes; but it is left with him to acquaint them with the Names whenever he ſhould recollect them at a future Time. If he had atteſted an original Will after the Death of the Party, on the Face of it, it certainly had not the Appearance of an honeſt Tranſaction. He is not queſtioned why, and at whoſe Perſuaſion he did. Here the Examination ſtops ſhort. Was this ſlight Examination ſufficient to inveſtigate the Truth of a Charge ſo heavy as that which was brought againſt Zekereah, and a Charge on which ſo great Property depended? Was a Man who atteſted an original Will after the Death of the Teſtator, a Witneſs to whom implicit Credit was to be given; at leaſt, without having obtained ſome Explanation of his Conduct? Malcolm, in reply to the Note of the Cauzee and Muftees affirmed, that "he had heard from Ghyrut Beg, that the deceaſed had not left "behind any written Will whatever." Whether the Converſation held by Malcolm with Ghyrut Beg, alluded to this Hebenamah or Will, does not appear. If it alluded to a Will, properly ſo called, ſuch a Converſation might well paſs, and yet be no Imputation on the Hebenamah, which is not a Will; a Will is the Inſtrument well known by the Mahomedans, by the Perſian Word Wooſſeeyut.

Whether Shawbaz Beg Khan left ſuch an Inſtrument behind him, was not the Matter in Enquiry. This Note then by itſelf proves nothing. If the Converſation alluded to thoſe Deeds, why was not Ghyrut Beg found out and examined to what he had ſaid, or at leaſt a Note ſent to him?

There was an additional Reaſon why he ſhould have been examined; for he appears to be one of the ſubſcribing Witneſſes to the Deeds, the Validity of which they were enquiring into. It would be ſtrange indeed, if this Converſation did allude to either of theſe Deeds; for then Ghyrut Beg by this Declaration, not only confeſſed that he had ſubſcribed a forged Paper, but that he ſubſcribed knowing it to be forged; which muſt have been the Caſe, if he knew that Shawbaz Beg Khan had left no ſuch Deed behind him. This is attempted to be aſſiſted by what the Peon, who carried the Note, is ſuppoſed to ſay: viz. That "he had been further informed by Malcolm, that Ghyrut Beg told "him, the Will had been written after the Deceaſed's Death." Here they were in Poſſeſſion of Evidence, compounded of an Anſwer to a Note, enquiring into what Malcolm had heard Ghyrut Beg ſay, and the parole Teſtimony of what the Peon heard Malcolm ſay, that he heard Ghyrut Beg ſay. Is it poſſible that this Hearſay of an Hearſay, without any Examination of the Party who was ſuppoſed to ſay it, or who was ſuppoſed to hear it, though they were both to be got at with Eaſe, ſhould be treated as ſerious Evidence by the Law Officer? But if meant to be inferred, that all this is confirmed by a Confeſſion of Cojah Zekereah, which I will examine hereafter. On the Firſt Day of Zekedge, not on the ſame, but the next, Newauz Ally is produced and examined; but whether in the Preſence of Cojah Zekereah, or whether he had any further Opportunity of aſking him Queſtions, does not appear in the Report. Newauz Alli, whom Ennayut Ullah Beg and Cojah Zekereah had charged with having written out the Will, declared upon Oath, "That after the Death of the Deceaſed, Cojah Zekereah "brought the Draft of a Will to him, which he deſired he would copy fair, on a clean Sheet of "Paper, on which there was no Seal; that Cojah Zekereah told him, the Draught had been prepared "in the Preſence of the Deceaſed; that he did not know whether the Draught had been prepared "or not, in the Preſence of the Deceaſed; but that, agreeable to the Deſire of Cojah Zekereah, he "copied the Will fair, and gave it to him." This Man, for what Reaſon I know not, is the only Man they thought proper to examine upon Oath. Allowing Newauz Ally to be a Witneſs of the moſt unimpeached Character, without drawing Concluſions to his Diſadvantage from the Part which he himſelf ſays he bore in this Affair, is it poſſible that the Perſon who propoſed to Newauz Ally to be guilty of this Villainy, ſhould not have endeavoured to ſecure his Secreſy by ſome Profit or Advantage he might derive from it?

Is it in the Nature of human Tranſactions, that if this Villainy had been contrived by Cojah Zekeriah and Ennayut Ullah, that they ſhould, without any Reaſon whatſoever, point out the very Perſon who could, and who they had no Cauſe to think would not convict them of it?

But if the account given by Newauz Ally was probable, is he ſo clear an Evidence, ſo totally unimpeached by his own Account, that implicit Credit ſhould be given to him, without any further Examination? Was it not at leaſt a ſuſpicious Act to copy, not from an Original, but from a Draught, the Will of a Man after his Deceaſe, whether the Copy was or was not prepared in the Life-time of the Teſtator? Of what character muſt he be who would copy it, if he had, without knowing that he had, and without examining it with the original Will. That there was even a Draught prepared in the Life of Shawbaz Beg Khan he takes on the Credit of Cojah Zekereah, who barely told him ſo; but was it ſufficient that the Draught ſhould have been prepared in the Life-time of Shawbaz Beg Khan? Why did he not enquire after the original Will? It is not even aſſerted to him by Cojah Zekereah, that any *Will* ever exiſted; but that the Draught was prepared in the Life-time of the Deceaſed.

Could then a Copy made from a Draught of a Will which never exiſted be written out for any good Purpoſe whatſoever? Without being ſubſtituted in the Place of an Original, it could ſerve no Service at all. He accordingly copies out in ſuch a Manner as not to bear the Appearance of a Copy, but an Original. It is an Evidence in this Cauſe, and is alſo admitted, and it is not the firſt Time it has been proved before us, that it is the univerſal Practice of Moonſhees, when they make Copies, to write at the Head of the Paper the Word Nukhal; and that they extend the final Letter of that Word by a long Stroke which they make to occupy the whole firſt Line, ſo that on the firſt Glance of it a Copy may be diſtinguiſhed from an Original; and this they do that one may not be ſubſtituted for the other. Yet no Queſtion is aſked, why the Witneſs did not enquire for the original Will before he wrote the Copy, nor why he did not put the uſual Mark upon it, which diſcriminates a Copy from an Original.

Could the Cauzee and Muftees, Men converſant in legal Proceedings, be ignorant of this laudable Practice? By whom was Newauz Ally produced? Why he was not ſent for immediately, after he was pointed out by Cojah Zekereah, and Ennayut Ullah to be the Perſon who wrote this Inſtrument.

It was on the 28th of Jecaude, that Cojah Zekereah and Ennayut Ullah had informed them, that Newauz Ally wrote out the Will; for they are ſtated to have ſaid this on the Day in which the Deeds were produced. He is not ſent for that Day; yet they ſeem to have Time ſufficient, for there had been no long Examination. On the next Day the Cauzee and Muftees ſay, they remained ſitting till 12 o'Clock at Night, merely to wait for the Production of the Marriage Settlement. Why was he not ſent for in all this Time? Another Day intervened, on which the greateſt Part of the Examinations was taken; and it is not all the 1ſt of Zehige that is produced.—If Behader Beg was not honeſt, when Opportunity was given to him to tamper with and corrupt ſo principal a Witneſs? But defective and ſuſpicious as all this Teſtimony is, yet it is ſuppoſed to be amply ſupplied by the contradictory Aſſertions, and the poſitive Confeſſions of Zekereah. Before I examine theſe Aſſertions and Confeſſions, I muſt ſtate briefly the Charge made by the Defendants of the Forgery, and the Defence ſet up by Cojah Zekereah. The Account on the Part of the Defendants is, that one Day when the Cauzee and Muftees were taking the Inventory, the Cauzee enquired on what Grounds the preſent Plaintiff founded her Claim to the Inheritance, that Zekereah ſaid, ſhe claimed it by virtue of a Mohurnama (a Marriage Settlement) and an Hebenamah and Ekrauram, and that he produced the Papers now before us, and delivered them to the Cauzee as the original Deeds; and that the Deeds had then the Seal of Shawbaz Beg Khan, and the Atteſtation of the ſeveral Witneſſes to them; that Newauz Ally gave the ſame Account of the writing the Hebenamah after the Death of Shawbaz Beg Khan, as is ſtated in the Report; that prior to the Writing of the Hebenamah now before us, Newauz Ally had, at the Inſtance of Zekereah, wrote another Copy of the ſame Draught, which had undergone ſome Alteration before he tranſcribed from it the preſent Hebenamah: That this firſt Paper had been offered to different Perſons to atteſt with different Succeſs.

That this Copy was deſtroyed, and the ſecreted Paper copied by Newauz Ally, which is the preſent Hebenamah now ſet up as an Original; from whence this forcible and natural Inference is drawn, that no Hebenamah was executed and atteſted in the Life of Shawbaz Beg Khan.—The Anſwer and Defence of Cojah Zekereah to this Charge is, Shawbaz Beg Khan executed and procured the Atteſtation of the ſeveral Witneſſes to the Hebenamah and Ekawram on the 10th and 11th Days of Ramzaun Hegira, 1190; that after the Death of Shawbaz Beg Khan, he was deſirous to give an Account to his Relations of the Manner in which Shawbaz Beg Khan had diſpoſed of his Effects, and for that Purpoſe to ſend a Copy of the Conveyance to Kabul; that he did not chooſe to apply to the Begum for the original Deeds, leſt ſhe might be ſuſpicious that he intended to make a bad Uſe of them; and as he knew that Newauz Ally had acted as Moonſhee to Shawbaz Beg Khan, he thought he might have the Draught of them by him; that Meeting with his writing Apparatus, he ſearched for them, and found the Draught of the Hebenamah, and gave it to Newauz Ally to copy, which he did accordingly. Zekereah aſſerts, contrary to the Teſtimony of Newauz Ally, that this was the only Copy made by Newauz Ally at his Requeſt.—He ſays to this Copy the Seal of the Deceaſed was never affixed, and denies even having the Poſſeſſion of that Seal; but he acknowledges that he procured the Atteſtation of Ghyrut Beg, Ennayut Ullah, and Syed Amud Khan to it as Witneſſes to a Copy, but not as an Original; that he ſent this Copy as he intended to Kabul. He denies ever having produced to the Cauzee and Muftees the original Deeds. He admits the Demand made by the Cauzee and Muftees at the Time the Inventory was taken as to the Claim of the Begum, and he anſwered that ſhe founded it on Mohurnamah, and Hebenamah and Ekrauram; that he gave Copies of both the laſt Inſtruments to the Cauzee without being atteſted by Witneſſes; that the Cauzee demanding the Originals, and on his telling him the Begum refuſed to part with them, Zulphicar Alli accuſed him of the Forgery, and ſaid that the Seal of Syed Ahmud Khan was to it; that the Cauzee and Muftees apprehending that Copy ſent to Kabul, and which had the Seal of Syed Ahmud Khan affixed to it, was ſet up as an Original, accuſed him before the Council, and on that he was taken up and confined, and afterwards examined by Mr. Law, in the Preſence of Mr. Droz, the Cauzee and Muftees, and Zulphicar Alli, concerning the Accuſation, founded on an Apprehenſion that the Paper with Syed Ahmud Khan's Seal to it was ſet up as the Original; whereupon Zekereah denied ſetting up ſuch Paper as the Original, and then for the firſt Time produced the Hebenamah and Ekrauram, to convince Mr. Law that it was not on the other Paper that the Begum founded her Claim. He ſpeaks of the Conviction of Mr. Law, and the Confuſion of the Cauzee. Mr. Law, he ſays, refuſed to return the Paper; that by ſome Means or other the Cauzee and Muftees got Poſſeſſion of them, ſubſtituted the Hebenamah and Ekrauram in the Place of the unatteſted Copy he had given them, and changed the Charge of the Forgery grounded on the Paper with Syed Ahmud's Seal to it, to a new Charge of Forgery grounded on the original Hebenamah. I have been obliged to ſtate theſe different Accounts in this Place, for the Purpoſe of giving the only rational Explanation of the Declaration of Zekereah, and to examine whether the whole of the Examination on the Report, did not in Truth relate to a Charge of Forgery, on an Idea of ſetting up that Paper which Syed Ahmud Khan had atteſted, and not on the preſent Deeds, and whether in Fact the Hebenamah and Ekrauram were not introduced into the Report poſterior to all the Examinations ſtated in the Report.

The Paſſages from which an unfavourable Concluſion is drawn from the Behaviour of Zekereah, are, firſt, the not producing the Marriage Settlement. I cannot ſee that any Inference with Regard to Forgery, could be drawn from this Incident, nor can I ſee, as I before ſaid, what the Marriage Settlement could have to do in the Caſe, but with Regard to the Share ſhe would be entitled to as a Widow, if ſhe had no other Claim.

Secondly, that Cojah Zekereah obſerved that the Seal of Syed Ahmud Khan had been affixed to the Waſſecut Namma, which he Coja Zekereah had ſince torn. A little afterwards he ſays it was upon the Sooruthaul that Syed Ahmud Khan's Seal had been affixed, which alſo he had ſince deſtroyed. This is ſuppoſed to be contradictory, and poſſibly may be ſo; but whether it was ſo or not, is not examined into by the Cauzee and Muftees. No Examination is entered into whether ſuch Paper ever exiſted, which Syed Ahmud Khan had affixed his Seal to. Is it not poſſible that he might have put his Seal as well to that Inſtrument, as to that he was queſtioned about? As it is ſtated, I ſhould rather think he had not, but it was a Matter open to Proof. Why then is the Concluſion drawn without Proof?

Zekereah is not aſked whether his Meaning was that the Seal had been put to all theſe Papers, and whether he meant what he ſaid in Excluſion to his having fixed his Seal to any other Paper. As ſtated, merely nothing concluſive is to be drawn againſt Zekereah.

The Parts from which his Confeſſion is to be collected are:

Firſt, That after the Death of the Deceaſed, he carried the Will to Haukeem Haddy Khan to atteſt; but Haukeem Haddy Khan urging that he had no Acquaintance with the Deceaſed's Will, had declined affixing his Seal to it. Coja Zekereah then, before the Judges who are examining the Validity of this Inſtrument freely, and without any Queſtion put to him, declares, that he attempted to get it atteſted, after the Death of the Perſon who made it, and whom he had proved to have executed in his Life-time? No Queſtion had been put to him. It is thus introduced: "Coja Zekerea added, that after the Death of the Deceaſed, he carried the Will to Haukeem Haddy Alli Khan, to atteſt; but Haukeem Haddy Khan urging that he had no Acquaintance with the Deceaſed's Will, he declined affixing his Seal to it." Is this credible on the Face of it? What could induce Zekereah to make ſo open a Confeſſion, which muſt invalidate the Widow's *Claim, and ſubject* him to a criminal Proſecution? Couple his Defence at the Trial with what he is ſtated to have ſaid on the Examination; and what this, which is conſtrued to be a Confeſſion, really was, will fully appear.

His Defence is, that the Charge originally ſet up againſt him was founded on the Copy, which he ſays he ſent to Kabul; and to that Copy he ſays, Syed Ahmud Khan's Seal is: And he is ſtated by the Report a few Lines below this pretended Confeſſion, to affirm, "that the Seal of Syed "Ahmud Khan had been affixed to the Copy of the Will, and not to an Original." Apply this Declaration of Zekereah to a Copy; it is natural and probable. The procuring Atteſtations to a Copy, which was to be ſent to a diſtant Country, was an innocent Tranſaction, and might be avowed. No Conſequence could ariſe from it fatal to himſelf or the Cauſe he was maintaining.

If it is ſuppoſed to relate to an original, it is *monſtrous and abſurd.*

Another Declaration of Zekereah, from which a Confeſſion is concluded againſt him, is his having declared, that what Malcolm had ſaid to the Peon, who carried the Cauzee's Note was true. Malcolm is ſuppoſed to ſay to the Peon, that Ghyrut Beg had told him, "the Will had been written after the Deceaſed's Death." Apply this to a Copy, it is natural and credible: apply it to the Original, and the Obſervation I have juſt before made, operates with equal Force on this Part of the Evidence.

That any Defence was by Zekereah ſet up againſt the Charge of Forgery made againſt him before the Cauzee and Muftees, does not appear on the Report; that he inſiſted, as he has before us, that the Seal of Syed Ahmud Khan was to a Copy, does appear upon the Report.

It is very obſervable, that no Notice is taken of the Queſtion ſtated to be put to Zekereah by Zulficar Alli. He deſires to know what became of the Paper to which the Seal of Syed Ahmud Khan was affixed; and it was a Matter proper for Inveſtigation.

If the Queſtion was not put, why was it not? If it was put, why was not the Accuſer ſtated? or why was it not ſtated, he did not anſwer it? Had he anſwered that it was ſent to Kabul, it would have been clear that he inſiſted on the ſame Defence he now ſets up. Had he given any other Account, it would have ſhewn the Defence he now makes was conſiſtent with that he has now made.

If Zekereah's Depoſition, ſaid to be taken under his Seal, did compriſe a Confeſſion; if it did prove him guilty of Inconſiſtencies in his Relation, why is it not produced before us at the Trial? for ſurely that would have been competent Evidence to his Credit. The keeping back Evidence ſo material, leads us to ſuſpect that there muſt have been Reaſons for it; poſſibly, by that it might appear that Zulficar Alli's Queſtions were anſwered, by giving the ſame Account of that Paper, and ſetting up the ſame Defence which he now inſiſts upon. Theſe are the only Paſſages by which the Guilt of Zekereah is inferred, and conſequently the Title of the Widow impeached. If theſe Paſſages do apply to an Original and not a Copy, why call Newauz Alli Habent confientum reum? Why enter into Proofs? nothing is collected from his Evidence, that has not been virtually confeſſed by Zekereah. We lay therefoſe out of the Caſe, what are called the Confeſſions of Cojah Zekereah, becauſe we think it unjuſt to apply them. as the Cauzee and Muftees have, to the Hebenamah now before us. All the Evidence, then on the Forgery, is reduced to the Teſtimony of Newauz Alli, and he is oppoſed by that of Cojah Zekereah and Ennayut Ullah.

On the ſtricteſt Examination, we can ſee no Objection to the Credit of Zekereah, when before the Cauzee, &c. but he was intereſted by being entitled under the Deed to a Maintenance, but if the Will was forged, why did he not give himſelf a greater Intereſt?

Againſt the Teſtimony of Ennayut Ullah there was no Objection; why was Newauz Alli, who impeached his own Honeſty by his own Story, of Credit ſufficient to overturn the poſitive Teſtimony of Two credible and unimpeached Witneſſes? yet the Cauzee and Muftees have given that Effect to his Evidence. Thus we have conſidered the Facts ſtated in the Report, to have been real Tranſactions, and given Credit to this heterogeneous Matter which the Cauzee and Muftees received as Evidence; and that we did for the Purpoſe of ſeeing whether, allowing all their Premiſes, their Concluſions can be adduced from them; and even conſidering the Report in this Light, ſo favourable to them and unjuſt to the Plaintiff, their Concluſions are not well founded. From ſuch Premiſes, ſo defective, and compoſed of ſuch Materials, no Concluſions ſhould have been drawn. But we have no Proof whatever, that the Facts ſuch as they are ſtated to be, are true, or that the ſeveral Tranſactions related by the Cauzee and Muftees to have paſſed even in Reality, had Exiſtence; no one Witneſs is called to prove either. Was the Hebenamah, in point of Fact, before the Cauzee and Muftees at the Time of this ſuppoſed Inveſtigation? there is ſtrong preſumptive Evidence that it was not. Was the Charge originally brought againſt him for the Forgery of the Hebenamah, or of the Deed ſent to Kabul? there is ſtrong preſumptive Proof that it was not on the Hebenamah. Was not the Allegation of Behader Beg, that the Hebenamah and Ekrauram were forged Papers, introduced after the Examinations had been taken?

Was not the Hebenamah introduced into the Report after the ſuppoſed Enquiry into the Forgery? There is ſtrong preſumptive Proof of both. The Report aſſerts, that on the 28th of Zeniad 1190, both the Will and Deed of Gift were produced, atteſted under the Seals of Cojah Zekereah, Ghyrut Beg, Ennayut Ullah Beg, Cauzee Mohzzum, and Mahomed Ewauz; and ſtates the Enquiry to be ſubſequent to this Production.

By whom they were produced the Report does not ſtate; yet in every other Inſtance, every Act done by Zekereah is directly charged as done by him.

If they were at that Time in Poſſeſſion of both theſe Papers, why did they confine their Examination to one of them? Why did they not enquire as well to the Authenticity of the Ekrauram, as of the Hebenamah? They were both atteſted by the ſame Witneſſes; it was no additional Trouble, but it would have tended greatly to ſend the Truth to Light. Cojah Zekereah and Ennayut Ullah were preſent. They were aſked as to the Authenticity of the Hebenamah only. Why were they not aſked likewiſe as to the Ekrauram?

Were they examined? as it would be natural to examine them, if the Hebenamah was before them? Was the Paper ſhewn them? And were they aſked, whether they ſaw the Grantor execute *that* Paper? ſhewing it. Whether the Seals affixed to that Paper were their Seals? Whether the Subſcriptions were of their Hand Writing? Whether the Papers then produced to Zekereah, were the Papers to which he the Day before referred, as the Grounds of the Begum's Title? No Queſtion whatſoever is ſtated to be put; no Anſwer given by either of the Witneſſes, from which it can be inferred that Queſtions were aſked them concerning a Paper then preſent; they are only barely aſked as to the Authenticity of the Will, and their Anſwer received, "That it was a true Will." That Queſtion might with great Propriety be aſked concerning a Paper which was abſent; and it would be highly improper and unnatural, that the Queſtions we have ſtated, or Queſtions like them, ſhould not have been put if the Paper was preſent. Was Selaubut examined to theſe Papers? He being preſent, was interrogated, and depoſed, "that about Twelve Days ago Coja Zekereah came to him, and deſired him, as he had a Seal, to atteſt a Paper; that he replied, He had not his Seal about him, and did not therefore atteſt the Paper." He is interrogated to but one Paper. He was deſired to atteſt a Paper. Is he aſked whether it was one of the Papers before him? It is plain, by his Anſwer, no Paper was ſhewn him; and if they meant to impeach Papers then before them, as being Papers of which Atteſtations were endeavoured to be got after the Death of Shawbaz Beg Khan, is it poſſible that they would not have been produced then, and aſked whether either of the Papers was the Paper he was deſired to atteſt?

No other Examination, except that of Newauz Ally, can be referred to the preſent Inſtruments; and does that refer to them? Newauz Ally declared upon Oath, that after the Death of the deceaſed, Cojah Zekereah brought a Draft of a Will to him, which he deſired he would copy fair, upon a clean Sheet of Paper, on which there was no Seal; that Cojah Zekereah told him, the Draft had been prepared in the Preſence of the Deceaſed; that he did not know whether the Draft had been prepared or not in the Preſence of the Deceaſed, but that, agreeable to the Deſire of Cojah Zekereah, he copied the Will fair, and gave it to him. This is all that is ſtated. Is the Hebenamah ſhewn to him? From whence is it to be collected? If they had it before them, why did they not ſhew it? Why was his Evidence left vague and uncertain, as to what Copy he wrote? Why were they contented with this Declaration, that he had wrote *a* Copy? Why did they not produce the Hebenamah, and aſk whether that Hebenamah was the Copy he alluded to? The Omiſſion of ſo natural an Examination, is ſurely a ſtrong Preſumption they had not the Paper at the Time. This is all that can apply to the Hebenamah; but *ſhould* this have been all? And ſhould not more Perſons have been examined? If they were at that Time in Poſſeſſion of it, as they ſtate they were, they knew the ſubſcribing Witneſſes. Why were they not ſent for? It was an Examination of more than one Day; why were they not found and examined? Is it credible, if they had been in Poſſeſſion of the Papers at the Time of the Examination, they would not have ſent for them? Could they be juſtified in pronouncing a Paper, atteſted by Four Witneſſes, as forged, on the Evidence only of a Man, confeſſing himſelf to be an Accomplice, after Two ſubſcribing Witneſſes had proved it, without examining whether the Perſons whoſe Names and Seals appeared on the Deeds, were really ſubſcribing Witneſſes, and without receiving their Evidence, whether they ſaw it executed by the Grantor or not? No one of the ſubſcribing Witneſſes are aſked to this, not even Coja Zekereah and Ennayut Ullah, who were preſent. Theſe Two Men are not treated by the Cauzee and Muftees, as if they then knew them to be ſubſcribing Witneſſes. Even after the Examination of Newauz Ally, they are not aſked what induced them to put their Seals to the Paper. Is not all this almoſt concluſive Evidence, that the Cauzee and Muftees did not, at that Time, know they were ſubſcribing Witneſſes? Can their common Senſe, can their Integrity, as to the Examination, be ſupported on any other Idea, than the Ignorance of the Fact? But this is incompatible with the Hebenamah and Ekrauram then being before them. I have before tried the Declarations, ſuppoſed to be Confeſſions of Cojah Zekereah, with his preſent Defence. Compare this Tranſaction with it, and ſee, if what now appears ſtrange and unnatural, can't eaſily be reconciled by what Cojah Zekereah has ſaid. He ſaid, that the original Charge of Forgery againſt him, was on an Apprehenſion that the Copy ſent to Kabul, was ſent up by him as an Original; that afterwards the Cauzee got Poſſeſſion of the Hebenamah and Ekrauram, which he had delivered to Mr. Law, and ſubſtituted a Charge of forging thoſe Papers, in the Room of the Charge of forging the Copy atteſted by Syed Ahmud, and ſent to Kabul. It is wonderful how the Examination before the Cauzee coincides with this Account.

If this Account be true, it is natural that the Examination of Cojah Zekereah, and Ennayut Ullah, ſhould be confined to One Paper only; for but One Paper had been atteſted by Syed Ahmud. It was natural that they ſhould not be queſtioned as ſubſcribing Witneſſes; for it was not pretended they atteſted that Copy; or if they did, the Cauzee and Muftees did not know it. It is natural no Paper ſhould be ſhewn to them; for that was certainly abſent. It was natural Cojah Zekereah and Ennayut Ullah, ſhould be aſked generally whether they knew of any authentic Will; and it is natural that they, having ſubſcribed the preſent Paper, and ſeen it executed, ſhould aſſert it is One, a true One.

If they were examining Selawbut Cawn to the Paper ſent to Kabul, they would likewiſe aſk him but to One Paper; and if his Anſwer referred to that, it would be only to One Paper; and the not producing the Hebenamah, &c. to him is naturally accounted for.

If they were examining Newauz Ally to the Copy ſent to Kabul, it was natural that they ſhould examine to a Copy generally; and they could not produce to him a Paper which they had not.—If they were examining to the Copy ſent to Kabul, and theſe Papers were abſent, it clears up what otherwiſe is inexplicable, why the ſubſcribing Witneſſes preſent were not examined as ſubſcribing Witneſſes, and why the others were not enquired for.

None of the Witneſſes to the preſent Papers, though ſubſcribing Witneſſes to theſe Deeds, are examined as to their Subſcription and Atteſtation. Thoſe who were ſuppoſed to have ſubſcribed the abſent Paper. This appears from their Anſwers. Meer Aumur Uddeen anſwers, "*He* did not affix his *Seal to the Paper* alluded to." No Paper therefore was ſhewn to him; he could have uſed the *Paper alluded*, if it had been ſhewn. Syed Ahmud Khan's Note arrives, purporting "that he had *affixed his Seal to* an atteſted Will." Selaubut Khan depoſed, That he did *not atteſt* the Paper. Why was not Cojah Zekerea and Ennayut Ullah examined in like Manner to the Atteſtation of the Papers ſaid then to be preſent? Thoſe whom the Cauzee and Muftees ſuppoſed to be ſubſcribing Witneſſes, he examined as to their Atteſtations. As they did not ſo examine Cojah Zekerea and Ennayut Ullah, is not the Concluſion forcible, that at the Time of their Examinations the Cauzee and Muftees did not know that Cojah Zekerea and Ennayut Ullah had atteſted the Deeds? and this they muſt have known if the Deeds were, as they repreſent, in their Hands.

Though it is ſtated that Zulficar Ally aſſerted, that Pains were taken to procure People to prevail on themſelves to witneſs them, and that Men of Character had refuſed, no Evidence is given on this Head that can be applied to the Hebenamah and Ekrauram; nor is that attempted. The Whole is applied to that Part of his Allegation which ſays, that there had been another forged Paper introduced, atteſted with the Seal of Syed Ahmud Khan. That Paper is the Paper which Cojah Zekereah allows to exiſt, and is the Paper which he ſent to Kabul, and evidently ſhews that Zulficar actually made a Charge of forging that Paper; and there is no Evidence from the Mode of Proceedings, that he made any other Charge; that ſtands on the Aſſertion of the Defendants in the Report. No Proof whatſoever is adduced, that any Perſons were ſolicited to atteſt the preſent Deeds but thoſe who did atteſt them.

The Note ſent to Syed Ahmud Khan was profeſſedly to examine concerning the Paper, ſaid by Zulficar to be forged by Cojah Zekereah, to be ſent to Kabul.—The Anſwer ſent by Meer Aumeer ud Deen, ſhews not only that thoſe Papers were never ſent to him, but that he was not examined as to them.—His Anſwer is this; "He did not affix his Seal to the *Papers* alluded to." This is the only Inſtance in which it can be implied, that more than One Paper was examined to; but either it could not be theſe to which he was examined, or they were not in the Poſſeſſion of the Defendants.

If they had the Hebenamah and Ekrauram before them, nothing could be more abſurd than to ſend a Meſſage to this Man, to enquire whether he had atteſted them; that he did not, they might have ſeen by ſimply inſpecting the Papers. No other Queſtion could be put; for this was the only Anſwer given; and they are compleatly ſatisfied with it. What relates to Ghyrut Beg and Malcolm, I have before ſhewn muſt relate to the Copy mentioned by Cojah Zekerea. Ghyrut Beg is indeed deſcribed as One of the Witneſſes to the Will and Deed of Gift; but that is only Matter of Deſcription, and when inſerted it does not appear. Why is he not, if they knew it at the Time of Examination, ſent for, and examined?—Add to all this Evidence of theſe Deeds not being preſent, that and their only examining to one Deed, that what they did examine to was a Will, and not a Hebenamah; not only the Examinations are to a Will, but the Allegations of Behader Beg, and his Arguments, are ſpecifically ſo. So far from any Charge being founded on the Hebenamah, they did not know ſuch a Paper exiſted. They conceived the Paper atteſted by Syed Ahmud Khan to be a Will, properly ſo called; and directed all their Examinations pointed to that ſpecific Inſtrument. The tranſlating the Word Hebenamah into Will, and treating that Inſtrument as a Will, and dropping any Mention of the Ekrauram at all, was the only poſſible Means by which the Evidence on the Charge of forging the Inſtrument having the Seal of Syed Ahmud Khan upon it, which was ſuppoſed to be a Will, could with any Colour be applied to theſe Deeds. Apply the Defence of Cojah Zekereah as a Key to this Report, and by this the whole Secret is opened. Who, bearing that in their Mind, can doubt what the Confeſſions of Cojah Zekereah relate to? Who can doubt to what the Examination referred? Who can doubt that one Charge was converted into another? And who can doubt that the Hebenamah was introduced into the Report when it was drawn up, ſtated, and fabricated, and that it was not in the Poſſeſſion of the Cauzee and Muftees when the Examinations were taken?—That the Allegation of Behader Beg, which is ſtated to have been prior to the Production of the Hebanamah and Ekrauram, was introduced into the Report after the Production of them, is clear almoſt to Demonſtration. Behader Beg in his Allegations relates the Names of the ſubſcribing Witneſſes to theſe Deeds, as Accomplices to the Widow, in the very Order they are ſubſcribed to the Deeds, and this at a Time he muſt be ſuppoſed not to have ſeen the Deeds This Part of the Charge therefore muſt have been made ſubſequent, and for the Purpoſe of conforming to what the Defendants ſtate to be the Evidence. On reading the Report with this Key, it will not be difficult to perceive, how the original Examination ſtood, and what has been introduced ſince, and how much more conſiſtent it was without the new Matter. There is poſitive Proof, capable of being controverted if not true, but not controverted, of the Manner in which theſe Deeds came to the Poſſeſſion of the Defendants. Kurreem Ullah, a Muftee himſelf, and one that ſighed this Report, and who is equally culpable with others, and who ought, and I do not know why he was not made a Defendant, is the only Perſon who ſwears to Cojah Zekereah having produced the Hebanamah and Ekrauram to the Defendants; and this he ſays was done at the Time that the Inventory was taken; and he is confirmed by Newauz Ally, who ſays he ſaw him with the Cauzee at that Time, in the Houſe of Shah Baz Beg Khan, and that he was examined to them. I ſhall hereafter ſpeak more fully to the Credit theſe Two Witneſſes deſerve; in Oppoſition to which, is the Teſtimony of Cojah Zekereah. As to the Time and Occaſion of his firſt producing theſe, which he aſſerts to be before the Council, to Mr. Law, on the Probability of the Stories, and the Credit of the Witneſſes, and the Circumſtances attending the Relations, we cannot heſitate to declare, that the Weight of Evidence is clearly on the Side of Cojah Zekereah; that theſe Papers were firſt produced by him to Mr. Law, and not at the Houſe of the Plaintiff; and that by ſome Means or other, the Defendants have ſince Poſſeſſion of them.

That the Tranſaction as ſtated, paſt, there cannot be a Doubt; if it had not Mr. Law, Mr. Droz, Mr. Young, and a Fourth Engliſh Gentleman, ſworn to be preſent, Kurreem Ullah, Zulficar Ally could, and no Doubt would, have contradicted it; and of theſe Mr. Droz, Mr. Young, Kurreem Ullah, and Zulficar Ally, have actually been examined before us, and they have not attempted to controvert this Part of the Evidence. If, notwithſtanding all theſe Obſervations, this Relation of Cojah Zekereah ſhould be falſe, there are Witneſſes abundantly ſufficient to convict him of Perjury: And if this be true, it proves Two Things; that either all the Proceedings of the Council in the Cauſe are not entered in the Book of their Proceedings, or that the whole of the Proceedings have not been ſhewn us. The Firſt I take to be the Truth; for I have carefully examined the Book, and can find no Trace whatſoever of this Tranſaction, or any other Proceedings in this Buſineſs, in which the Deeds are mentioned, prior to the Report; which is certainly a groſs Neglect, eſpecially as an Appeal is ſaid to lay from this Provincial Court to the Governor General and Council. By this Means, the Court of Appeal cannot be furniſhed, as they ought to be, with the Whole of the Caſe, as it appeared before the inferior Court; and on that only ought a Court of Appeal to proceed. This was the Time when theſe Papers were brought to light; and this is incompatible with the Evidence of Kurreem Ullah and Newauz Ally, that theſe Papers were produced by Cojah Zekereah at the Time of the Inventory.

If it be contended, that both the Stories are true, and that theſe Papers which were produced at the Houſe of the Plaintiff by Cojah Zekereah, were afterwards re-delivered to him by the Cauzee, and that he afterwards delivered them to Mr. Law; my Anſwer is, That this is next to impoſſible. In the Firſt Place, there is no Attempt to prove the Re-delivery of them to Cojah Zekereah. The Report ſtates the Production of the Papers to the Cauzee, after the Charge of Forgery was introduced. Is it credible, that the Cauzee could re-deliver theſe Papers? and ought he ſo to have done till the Matter had been examined into? Can any thing be collected from the Report that he did? The Report does not mention theſe having been twice before the Cauzee; if they had, the Truth ought to have been ſet forth.

But it is impoſſible that they ſhould. The Time they were produced to Mr. Law, muſt have been the Firſt Time that the Cauzee and Muftees had ſeen them; for, from the Converſation that paſſed at that Time, it is evident, that down to that Period the whole Charge of Forgery had been founded on the Paper to which the Seal of Syed Ahmud Khan was affixed. That was what Cojah Zekereah was charged with by Mr. Law, in the Preſence of the Cauzee and Muftees. Mr. Law and Cojah Zekereah joined iſſue on the Fact, whether or no the Seal of Syed Ahmud Khan was to the original Deeds on which the Plaintiff claimed the Inheritance.

To repel that Charge, it was that he produced the preſent Hebenamah and Ekrauram: This was the only Charge the Cauzee had informed Mr. Law of; he had not appriſed Mr. Law of the Exiſtence of theſe Deeds; neither he, nor any of the Muftees ſay to Mr. Law, theſe Papers were before produced. Theſe we have examined likewiſe, and the Charge of Forgery is as well on theſe, as on that to which Syed Ahmud Khan's Seal is affixed. On the contrary, the Cauzee was flung into Confuſion, and could give no Anſwer to Mr. Law, when he enquired what all this meant.

Down to this Time then, the Paper to which the Seal of Syed Ahmud Khan was affixed (as Zekereah ſays) was conſidered as the Original on which the Widow claimed.

That could not be, if theſe original Papers, with theſe Atteſtations to them, had been produced at a prior Time; and Cojah Zekereah had expreſsly declared them to be the Papers on which the Plaintiff relied: Yet theſe Papers were read with ſo much Attention, and the Memory of them preſerved with ſo much Accuracy, that Kurreem Ullah takes upon him to remember ſome ſmall Interlineations, and the very Word interlined; and this at the Diſtance of Two Years: But we ſhall have no great Reaſon to be ſurpriſed at the Retentiveneſs of his Memory, when we obſerve that the Papers which he ſwears to by theſe Marks, have, during Two Years, and down to the Time he gave his

Evidence, been in the Poſſeſſion of the Cauzee and Muftees, from whom they are received to be read in Court, and that he is one of thoſe Muftees; and had, or might have had, the Inſpection of them at any Time, nay even the Moment before he was examined to them. The ſwearing to Obſervations on Marks, when the Papers have been out of the Poſſeſſion of the Perſon ſwearing to them, is ſome Evidence; but when they have been in his Poſſeſſion, it is certainly very ſuſpicious *that* the Obſervation is recent, or the Memory refreſhed.

If theſe Papers then could not have been produced to the Cauzee, prior to their being in the Poſſeſſion of Mr. Law, they could not be produced by Zekereah to them ſince; for Mr. Law impounded them, and there is no Pretence that Cojah Zekereah ever had them afterwards. That then was the only Time he produced them, and through Mr. Law only they could have come to the Hands of the Cauzee. We obſerved before, that the Report ſtates the Production of them thus: "On the "Day following, both the Will and Deed of Gift aforeſaid were produced." The Report does not ſay Cojah Zekereah produced them. If they were produced by Mr. Law, it might have been much to inſert in the Report, which Mr. Law was to ſee, that they were produced by Cojah Zekereah. Yet, as is before obſerved, every other Act or Saying to Cojah Zekereah is expreſsly charged upon him.

There are Proofs ariſing from the internal Evidence of Facts which cannot be, and are much ſtronger than any poſitive Teſtimony of Witneſſes. That Mr. Law got Poſſeſſion of theſe Papers ſubſequent to the Examination ſtated in the Report, is nearly certain. The Examination of Newauz Ally, ſtated to be the laſt in Time, was by his own Account taken on One of the Days when the Cauzee and Muftees took the Inventory, and on the Day that Cojah Zekereah is charged by Kurreem Ullah to have produced theſe Papers. On that Day, therefore, all the Examinations were cloſed; but it is not till after that Examination had paſſed, that Cojah Zekereah was taken into Cuſtody, and carried before Mr. Law, and produced the Paper to him.

It is then clear that the Story of the preſent Papers was introduced into the Report after the Examinations were ended, and what ſeemed probable, is demonſtrated.

Having gone through the Allegations and Proofs ſtated in the Report, the next Thing is to conſider the Concluſion drawn from them. It is aſſerted, that it appears from this Enquiry, "that the "Will and Deed of Gift are not deſerving Credit from many Circumſtances." What one Circumſtance is there to authorize the Concluſion? No Evidence is given with reſpect to the Ekrauram; that is left to attend the Fate of the Hebenamah, and how that has been impeached I have before conſidered. What One Mark is ſtated, what One Mark exiſted at the Time of this Report, to ſhew that the Papers were ſpurious? Are there any Interlineations, Alterations from which the Forgery is to be collected? That the Interlineations, mentioned by Kurreem Ullah, were of that Nature, is not pretended. Is the Tranſaction unnatural? Do People never leave their Eſtates to their Wives? Yet theſe Papers are pronounced "to wear Marks of being ſpurious." Where are the contradictory Relations of Cojah Zekereah to confirm their Belief? They have not taken upon them to call them Confeſſions.

They ſay, indeed, that an Ekrauram, or Deed of Gift, &c. as before deſcribed, is not of itſelf ſufficient to ſecure Succeſſion to Inheritance. By this Means they lay the Inſtruments, which would compleat the Title, out of the Caſe, arbitrarily and without Cauſe.

They do not pretend the Marriage Settlement to be neceſſary to the Title; yet they make the Non-production of it a Defect of Title, as Cojah Zekereah founds the Widow's Claim of Succeſſion on the Three together, the Will, and Deed of Gift, and Marriage Settlement.

What Concluſion was to be drawn from the Non-production of the Marriage Settlement? With what Truth is it aſſerted, that every Thing urged on the Part of Cojah Zekereah wants ſupport? Had they forgot the poſitive Teſtimony of him and Ennayut Ullah to the Authenticity of the Will? Is the Story of Bahader Beg *clear* and *explicit?* Does he even ſtate ſufficient Evidence of an Adoption? He claimed, excluſive of his Father.—Is this Story ſufficiently clear and explicit to maintain that Claim? If ſo, why is the Father decreed to be legal Heir? But was it ever heard before, that bare Allegation of a Party, however clear and explicit, without any Evidence whatſoever to ſupport it, was deemed in any Court of Juſtice ſufficient to entitle a Plaintiff to recover. The Fact is, there was no Evidence. They do not pretend to draw their Concluſions from Evidence, but merely from the Clearneſs and Explicitneſs of the Plaintiff's Story; but on theſe Grounds, ſo ſtated, they recommend that, excluſive of the Ultamghau, which does not compoſe a Part of the Inheritance, all the Deceaſed's Property be divided into Four Shares, whereof *Three ſhould be given to Bahader Cawn*, his Father being *the legal Heir* of the Deceaſed, himſelf the adopted Son; the remaining One to Naderah, the Deceaſed's Widow. This Decree correſponds in Regularity and Juſtice with the Proceedings which led to it. The Evidence on which it was grounded was inadmiſſable and contradictory, its Concluſion is confuſed and unintelligible. From this Decree, who can gueſs whether it be made in favour of the Father of Behader Beg, or of Behader Beg himſelf? The Father is declared to be Heir at Law, and Behader Beg adopted Son. If Behader Beg was adopted Son, it muſt exclude the Right of the Father; for then the adopted Son, and not the Father, would be Heir. If the Father was Heir, it excludes all Idea of Adoption; and by this Decree they have adjuſted both. It would be more natural to conclude, that the Decree was intended in favour of Behader Beg, as adopted Son, and his Relation to the Heir introduced only for the Purpoſe of ſhewing that he had a Kind of natural Claim to be adopted. Mr. Young ſays indeed (but from what we cannot collect) that he underſtood the Decree to be in favour of the Father. The Order of Council for carrying the Decree into Execution, does not clear up this Point. The Juſtification of Behader Beg ſays expreſsly that the Decree was in *his* Favour; he attended at the Diviſion to take the Share which he was entitled to under the Judgment. But the Truth is otherwiſe; for Mr. Young tells us the Perwannah of Execution (V) makes this clear; and ſo it does. It is from theſe Perſian Papers we are to look for Intelligence. It was not from the Petition of Behader Beg, or the Order upon it, that we could learn what the Nature of his Suit was; it was from the firſt Perwannah we were given to underſtand, that there was a Diſpute about Inheritance. It is not from the Decree, or the Order of the Council in conſequence of it, that we can collect in whoſe Favour the Decree was made; but the ſecond Perwannah explains to us that it is in favour of the Father of Bahader Beg, whoſe *Name* has not been mentioned in any one Proceeding before, and which we now for the firſt Time learn to be Allum Beg. From what Part of the Proceedings were they informed of his Name? The Perwannah (V) goes on, deſcribes the Relationſhip particularly: "You the Cauzee and Muftees, by Order of Council and according to Law, having determined that the Eſtate of Shaw Baz Beg Khawn be divided into Twelve Parts, Three Parts belong to Nauderah Begum the Wife of the deceaſed Kawn, who is the Maternal Brother and Couſin by the Father's Side." How did they learn, who told them that he was *Maternal* Brother *and Couſin by the Father*'s *Side?* there is no ſuch Evidence. All this ſhews that the Cauzee and Muftees had a Channel of Intelligence not diſcloſed in the Proceedings. This Judgment then turns out to be in favour of a Perſon not before the Court, and whoſe Name was not diſcloſed to the Council in the Report, and in favour of a Perſon not diſputing the Claim of the Widow. No Suit was inſtituted by Allum Beg: No Pretence that Behader Beg had any Authority to proſecute the Father's Right. If Allum Beg was conſidered as the real Party, and Behader aſſerting his Claim, where is Behader Beg's Vaukulutnaumah; which Mr. Young tells us is invariably neceſſary. Though he is to take the Benefit of the Decree, they do not think they have plauſible Ground to decree directly in his Favour. This being made clear by the Perwannah, we are now to conſider the Decree as made in favour of the Father; they have then not determined in favour of the Adoption, which muſt here exclude the Father; and they have in fact given no Credit to the Story of Behader Beg, which was ſtated to be ſo clear and explicit, that from that Circumſtance only, Behader Beg was entitled to a Decree. What Authority could the Provincial Court have to decree againſt the Widow, in favour of a Perſon making no Claim before them? and if the Court could, by what Authority did the Cauzee and Muftees do it? They were ordered by the Council on the Perwannah of the 2d January, to aſcertain the Right of Behader Beg, and of him only, claiming as adopted Heir. Is the decreeing the Inheritance to another, carrying that Order into Execution? By the Perwannah (V) Behader Beg is made Truſtee to Allum Beg: What Authority had the Cauzee and Muftees to make him Truſtee to his Father? Was it juſt to the Father to put that Son, who had ſet up a Claim of Adoption to defeat his Title, into Poſſeſſion of the Effects, under Pretence of being his Truſtee? In Point of fact, as his Father benefitted by the Decree, was it ever intended that he ſhould? It is now Two Years ſince this Decree: The Father is not yet heard of. There is no Reaſon to believe he had any Notice of the Decree; and if he ſaw it, he would not appear to be entitled; for it is decreed that, Behader Beg was the adopted Son. He muſt ſee the Perwannah (V) not the Decree, to know that he had any Intereſt in the Eſtate. There is no Evidence that any of the Effects have come to the Poſſeſſion of the Father; and there is poſitive Evidence that to this Day Behader Beg is in Poſſeſſion of the Houſe, and he is conſidered in the Place of the Deceaſed, and appointed by the Council to the Office occupied by Shawbaz Beg Khan. It would compleat this Plan of the Cauzee and Muftees, if on whom the Sheriff attempts to execute a Fi. Fa. in conſequence of this Judgment, he ſhould find Allum Beg, not Behader, in Poſſeſſion. However doubtful it might be in whoſe Favour the Words of the Decree are, and who ſhall benefit by it, there can be no Doubt but it was againſt the Widow, and ſhe was to be prejudiced by it. Is it not then too plain to be overlooked, that it was determined that Behader Beg ſhould be at all Events put in Poſſeſſion, and the Widow ouſted? It being too bold to do it without any Evidence on the Claim of Adoption, the Colour of being a Truſtee to the Father was made uſe of for the Purpoſe of finding a more plauſible Pretence of giving him Poſſeſſion, than they could derive from the Title he had ſet out. That the Hebenamah was not before the Cauzee and Muftees at the Time of Examination, has been demonſtrated. But I will not quit this Report without One Obſervation, which has ſtruck us all very forcibly, from which a ſtrong Suſpicion ariſes; that it had not, in the Form in which it is at preſent, its Exiſtence at the Time it bears Date; that on that Day ſome Report or Account, written or verbal, was made to the Council, may be true, and to that, and not further, we apprehend the Evidence of Mr. Young ought to be applied. We do not underſtand him to ſay, that the Report was that Day reduced to Writing, tranſlated, and entered on the Proceedings. What chiefly induces this Suſpicion is, that though this Provincial Council has Juriſdiction over all the opulent and populous Country of Bahar, though it is ſtated in the Juſtification to be the uſual Practice, and ſo proved by Mr. Young and Mr. Golding, in Cauſes between Muſſulman and Muſſulmans, to make References to the Cauzee and Muftees, and for them to report to the Council;

yet in the Book of Proceedings now before us, which begins with January and ends with June, there does not exiſt another Report made by the Cauzee and Muftees in any Cauſe whatſoever. This ſtands a ſingle Inſtance of ſuch an Entry. Yet by the Evidence of Mr. Young, we are to underſtand ſuch Reports are tranſmitted to the Governor General and Council; and that from the Frequency of them, he was induced to believe that the referring Cauſes to the Cauzee and Muftees, and receiving their Report, and carrying it into Execution, was part of the Conſtitution of the Provincial Courts. We cannot reconcile the Frequency of the Reports with this, being the only Inſtance during ſo long a Period, any otherwiſe than by concluding that it is not the Practice of this Court, except for ſome particular Reaſons, to enter the Report on their Proceedings: and we cannot ſuggeſt any particular Reaſon for entering this Report on the Proceedings, other than that a Cauſe was, or was about to be, inſtituted in this Court.

We have no Evidence where the Entry was made, nor from what Materials; whether it was taken down from the Mouths of the Cauzee and Muftees, or whether any Paper was delivered in by them; but from the Entry it ſhould appear that it was in Writing, becauſe it is ſaid to be *delivered in*, and appears to bear a Title. We have no Evidence by whom it was tranſlated. But if there was ſent a Paper in Perſian, that was the Original, and it ought to have been here produced, and the Tranſlation proved before us. We are not told in what Language it was; but the Cauzee and Muftees are unacquainted with Engliſh, and all the Proceedings which paſs through their Hands are Perſian. Why was not the Original produced? Why was its Place ſupplied by a Tranſlation, which on the Face of it is defective? All theſe Circumſtances taken together, added to the Introduction of the Hebenamah and Ekrauram after the Examination, makes us ſhrewdly ſuſpect that this identical Report never had Exiſtence, until it was fabricated for the Purpoſe of this Cauſe. We are induced to believe, that it is not tranſlated from any Perſian Original; if it had, it would have mentioned the Names of the Deeds. No Perſian Tranſlator could have conſtrued Hebenamah into Will, and an Ekrauram into Deed of Gift; from the Words themſelves, no Cauzee or Muftees could have given him that Explanation of them.

The Woſſeeyut or Will is a well-known Inſtrument, and the Hebenamah and Ekrauram are other well-known Inſtruments. Lawyers could not confound them. This is an auxiliary Reaſon to believe it is not cœval with the Date of the Proceedings. It is ſtrange to obſerve, that theſe Gentlemen of Patna, who ſit in Two Capacities; in one a Council of Revenue and of State, in the other as a Court of Juſtice, keep no ſeparate Books for their ſeparate Departments; nor make any Memorandum in their Books, in which all their Proceedings are confounded, when they ſit as a Council of Revenue, and when as a Court of Juſtice; and their Books are their only Records of Cauſes. I believe we might almoſt ſay this is the only Cauſe entered in the Book.

On this Decree, founded on theſe Materials, ſupported by theſe Arguments; and from theſe Deductions the Council proceed, as is related in the following Entry (Read the Order of Council of the 20th of January, in conſequence of the Decree in Exhibit I.)

By this the Decree is ordered to be carried into Execution, except with regard to one Point only, which, as we before obſerved, depends on Mahomedan Law, and in which they over-rule theſe Adviſers. In this order Cojah Zekereah, for the Firſt Time, is called Vakeel. Beſides the Execution of the Decree, they order all ſubſcribing Witneſſes to the Deeds into Confinement, till the Effects *ſaid* to be ſecreted are produced; and this without any Specification of Effects, without any Proof that any had been ſecreted, without any Charge or Allegation againſt the Witneſſes, who had ſaid any Effects have been ſecreted. Under what Pretence, or by what Authority that was done, is not an Object of the preſent Enquiry; as it does not appear that the Cauzee and Muftees ever adviſed that they ſhould at this Time be impriſoned. Their Report is ſilent as to the ſecreting and carrying away Effects. If Effects had been carried (and it is evident none were) it muſt have come to the Knowledge of the Council, by Means not apparent on any Part of the Proceedings.

That Reaſon for their Commitment fails, becauſe not ſupported by any Fact, or Evidence of any Fact. In the mean Time we cannot help being ſurprized, to ſee all the ſubſcribing Witneſſes to theſe Deeds among them. Cojah Zekereah, the only confidential Agent of the Widow, ordered into Confinement without any apparent Cauſe whatſoever, until certain Effects, not named, and not proved to be miſſing, ſhould be produced; a Day that never would come, if no Effects (which is the Truth) had been ſecreted.

After that indeed, they are ordered to be delivered over to the Phouſdarry, to take their Trial for a Forgery, of which the Will and Ekrauram, they ſay, bears evident Marks. The Order echoes the Report, ſtigmatizing the Paper as bearing evident Marks of Forgery. Thoſe Marks are not more pointed out now by the Order, than they were by the Report; and in Truth, on the Inſpection of the Deeds, it is plain, that at that Time they bore no ſuch Marks; but if they did not then, thoſe Marks ſince they have been in the Hands of the Defendants, have been amply ſupplied.

They were produced in Evidence before us, by Mr. Droz, who does not underſtand Perſian; and both appear to have this Indorſement upon them in Engliſh: "Produced in Council, and ſaid to be "forged, 20th January 1777. Simeon Droz."

This Indorſement, Mr. Droz ſays, was made by him; and, as far as that Indorſement goes, it was a fair Repreſentation. Mr. Droz was certainly juſtified in what he did, and he made his Indorſement cautiouſly. He confines his Obſervation to the Aſſertion of others; he does not himſelf pronounce it to be forged: But ſince that, it has paſt into the Hands of ſome Perſon, who has made an Indorſement on them in Perſian. Who that Perſon was, don't appear; but we receive them from the Defendant. The Perſian Indorſement is this: "According to the Examination of the "Law Officers, this Paper came out to be forged; relative to the Falſity of which an Engliſh "Signature has been placed, penned on the 20th January, 1777; according to the 26th of the "Month of Pous, 1184."

If there were no Marks of Forgery on theſe Papers before, they certainly have them ſufficiently now. By whoſe Authority was this Indorſement made? That of Mr. Droz's by no Means authorized it; he only writes, that it *is ſaid* to be forged. Here the Forgery is poſitively aſſerted. With this Indorſement it is given in Evidence before us; with this Stigma it is to be tranſmitted to the Criminal Phouſdarry Court at Muxadabad, which has impriſoned the Witneſſes in this Cauſe ſince the Trial; and before which theſe unhappy Perſons are to be tried. From the Hands out of which we receive the Deeds, and from the Language in which the Indorſements are wrote, the ſtrongeſt Preſumption ariſes, that they were added by the very Perſons who were to ſit as Criminal Judges, in the Firſt Phouzdarry Court on which they were tried.

This laſt Indorſement purports to be penned on a Day correſponding to the 20th January, 1777; but it is not probable that it was penned on that Day; the 20th January does not correſpond to the 26th of the Month of Pous. If it had been wrote on the 20th January, the Perſian Writer had nothing to do but to put down the Bengal Day which was then running, and which he could hardly have miſtaken at the Time; but if at a future Day he attempted to reduce the Engliſh to the Bengal Date, it is not ſurpriſing he ſhould have made a Miſtake.

But, notwithſtanding the Force of theſe Obſervations, Mr. Young is called to prove not only that theſe Acts were in themſelves fair and equitable, but that the Parties themſelves were ſo convinced of it, that they ſeemed ſatisfied with the Judgment of the Court.

I ſaid, at the Trial, before he gave this Evidence, becauſe I believed it, that the Gentlemen of the Council at Patna could not have ſeen this Report before it was ordered to be carried into Execution; for it appeared on the Face of it not only unjuſt, but abſurd; and I was willing rather to impute Inattention, than either Injuſtice or Abſurdity to their Proceedings. I can believe that no longer; for Mr. Young ſays it was read. I ſtill hope it was not conſidered and read only for Form's Sake. In what Language it was read, is not explained: If in Engliſh, the Parties could not underſtand it; if in Perſian, one of the Judges, at leaſt Mr. Droz, and, I believe, Mr. Young, could not underſtand it. We have endeavoured, as little as poſſible, to mention thoſe Gentlemen, or their Acts, becauſe they are not before the Court, and becauſe Mr. Law was abſent; Mr. Young had, indeed, an Opportunity of explaining the Proceedings, and has made uſe of it.

Mr. Young, to ſhew his Judgment to be juſt, introduces a Converſation he had with Cojah Zekereah at the Time the Report was made. The Converſation aroſe on a Queſtion put to Cojah Zekereah, by Mr. Young, on his Peruſal of the written Evidence of Newauz Ally. The Queſtion is, how he could preſume to commit ſo atrocious an Act? or Words to that Effect. This is Cojah Zekereah's Anſwer: "Of what Conſequence is it, whether the Paper was wrote before or after the Death of Shawbaz Beg Khan, ſo that he ſhewed his Intention or Will, in the Preſence of reputable People?" Mr. Young cannot charge his Memory, "that thoſe were the expreſs words of Cojah Zekereah, but that they conveyed that Senſe."

This operated on his Mind to make him think the Deeds forged. What Senſe did this Anſwer convey? That Cojah Zekereah, a Man clearly no Idiot, not only avowed the Fact of the Forgery, but contended that it was an innocent Act.

The Hebenamah was among the Papers. Mr. Young does not ſay he examined him particularly to that, but to the Depoſition of Newauz Ally. What Idea Mr. Young entertained of the Paper he was examining to, we do not take upon us to determine; but that Zekereah anſwered him, referring to the Copy which had the Seal of Syed Ahmud Khan to it, and which he allows was wrote from a Draught he gave to Newauz Ally, after the Death of Shawbaz Beg Khan, is beyond Contradiction. Refer this Anſwer, like the other pretended Confeſſions, to the ſame Copy; it is ſenſible and intelligible. There was nothing abſurd to contend, that the writing a Copy after the Death of the Party, if the Original exiſted in the Life of the Grant, was an innocent Act. The other Interpretation is incredible, except this, Mr. Young remembers nothing material happening at the Time of the Report.

To ſhew the Proceedings fair, Mr. Young ſays, that the Parties were at Liberty to object; but he does not ſay, they were ever told ſo.—How ſhould they be acquainted with that Right? But it is not ſufficient that the Acts were juſt, and the Proceedings regular. He proves that the Parties ſeemed ſatisfied with the Judgment, and conſequently had no Objection to make.

In what Situation were theſe Parties who ſeemed ſatisfied? Behader Beg had made a Claim on his own Right, and prayed it ſhould be aſcertained: If it was meant really to bar him by the Decree, and give the Effects to his Father, to whom it does not appear he is either eldeſt or only Son, he had no great Reaſon to be ſatisfied; but the Claim that Zekereah contended for, was not only overruled, but he himſelf ordered into Confinement upon Two Charges; one, the ſecreting the Effects, and that without any Colour that any Effects had been ſecreted; and the other for a Forgery, without Proofs or Examination into the Fact. It is wonderful if he could be ſatisfied. I intimated at the Trial my Surpriſe that Cojah Zekereah could be ſatisfied, whatever might be the Caſe of Behader Beg; upon which Mr. Young corrected his Evidence, by ſaying, they were ſatisfied as far as the Deciſion. I then aſked, Whether it was not all contained in one Order? Mr. Young did not remember; but it turns out, that the Whole is one Clauſe. Surely Mr. Young muſt have been an accurate Obſerver of Cojah Zekereah's Countenance, to diſtinguiſh how far the Satisfaction went, and where it ſtopped; eſpecially as from his (Mr. Young's) own Mouth it appears, that Cojah Zekereah made uſe of no Words expreſſive of Aſſent.

Is it poſſible he could have been ſatisfied with the Decree, even as far as the Diviſion of the Property? It was not only againſt the Claim he was maintaining, but impliedly convicted him of Forgery; this Appearance of Satisfaction muſt have been a tacit Aſſent to his own Guilt.

Thus far we have conſidered the judicial Probity of theſe Defendants: We muſt again ſee them in their miniſterial Capacity.

The Perwannah (V) directs the Diviſion according to the Report, and orders the Three-fourths expreſsly to be given to Behader Beg, and the other One-fourth to the *Widow*.

I ſhall not comment on the Farce of bringing up Cojah Zekereah, on the Part of the Plaintiff, to be preſent at the Diviſion, where he could not take Charge of her Portion; nor on the Propriety of delivering her Property, or in anywiſe truſting the Superintendance of the Diviſion, to a Perſon whom they had pronounced guilty of Forgery.

It is ſufficient that they did not execute it at all, as far as it concerned the Intereſt of the Widow.

I have already ſhewn that Part only of the Property was divided; even at this Day none has come to the Hands of the Widow, nor any Tender whatſoever made: She was turned out of the Houſe without Covering, without Bedding, was forced to depend on the Shelter and Charity of Faqueers, and the Whole of her Property to this Day remains in the Poſſeſſion of the Cauzee. So much for their acting bonâ fide, and for the ſubſtantial Juſtice they have done. It is next to be conſidered, whether they have proved, as they undertook to do, the Forgery before us: Whether this is proved, or not, muſt be examined on a ſtrict Enquiry into the Evidence, the Credibility of the Witneſſes, the Conduct of the Parties, and the Probability of each Story. This Charge was alluded to in the Croſs Examination of Cojah Zekereah, which produced his Declaration and Challenge to the Defendants to prove it.

But the direct Charge of the Forgery is firſt produced by the Evidence of Newauz Ally, and tho' ſtrong collateral Circumſtances are attempted to be proved, yet he is the only Witneſs who ſpeaks directly to the Fact.

His Teſtimony is to this Effect: That on the Seventh Day after the Death of Shawbaz Beg Khan, Cojah Zekereah gave him a foul Draught of a Paper, and with it a Sheet ſpotted with Gold, and deſired him to copy; telling him, that foul Draught exiſted in the Time of Shaubaz Beg Khan; that he heſitated, becauſe it purported to be an Hebenamah, and becauſe Cojah Zekereah had ſaid it exiſted in the Life of Shaubaz Beg Khan; that, however, he copied, and returned it to Cojah Zekereah with the Draught.

Two Days after, viz. the 9th Day after the Death of Shaubaz Beg Khan, on the Evening, Cojah Zekereah gave him the Draught again, and told him to make another Copy of it on Gold Paper; that ſince the firſt Copy, there had been a line ſcratched out in the original Draught, and under it ſomething written to the Right and Left; that he obſerved this to Cojah Zekereah, who told him he had no Buſineſs with it; that he made a Copy of it with the Alteration; that there were Diſputes with Cojah Zekereah and him about copying it, becauſe of the Line ſcratched out; that Cojah Zekereah was angry, and inſiſted on his copying, which at length he did, and he ſwears to Exhibit N (the Hebenamah) to be the identical Paper which he wrote laſt: He ſays he ſaw this Paper Three Times after with the ſeveral Seals that are now to it; firſt with the Cauzee, afterwards in the Council, and afterwards in the Phouſdarry. The firſt Time he ſaw it was in the Houſe of Shawbaz Beg Khan; and then gives an Account of a Converſation of the Cauzee with Cojah Zekereah, and ſpeaks poſitively of having ſeen Cojah Zekereah produce theſe Papers; which, on his own Confeſſion, turns out not to be true; for he as poſitively ſays, he never heard the Converſation, nor ſaw Cojah Zekereah produce the Papers. But he perſiſts poſitively to being examined before the Cauzee to the Papers on the Day Cojah Zekereah was ſuppoſed to deliver them; that he gave the ſame Account to the Cauzee he has given before us. He likewiſe ſpeaks of an Examination before the Council, where he was aſked, Whether he had wrote this Paper before or after the Death of Shaubaz Beg Cawn? that this Paper was then on the Table, and that he anſwered, He had wrote it. If this be true, here is another Inſtance of a Proceeding in this Cauſe not to be found in the Record of the Council.—He ſays, that he, Ghyrut Beg, and Cojah Zekereah and Haudgee Awauz being together, Cojah Zekereah acquainted Awauz, that Shaubaz Beg Khan had in his Life-time made an Hebenamah and Ekrauram, and deſired him to witneſs it: That Awauz declined it, having been abſent at Banares, and knowing nothing of the Tranſaction: That Cojah Zekereah drew him aſide ſoon afterwards, gave him the Two Papers, and that Awauz wrote Ullah. Cojah Zekereah then told Ghyrut Beg, he has wrote Ullah; that the Paper was open, and he ſaw Two Seals to it; that the next Morning he told Zekereah that it was not a good Thing (for he knew his own Writing) and that if he was called on to give Evidence, he would ſpeak the whole Truth. This Teſtimony of Newauz Ally with regard to the Hebenamah and Ekrauram, being before the Cauzee and Muftees, at the Houſe of Shaubaz Beg Khan, is confirmed by the Evidence of Kurreem Ullah, who ſwears poſitively that Cojah Zekereah produced them at the Time he told the Cauzee on what the Widow ſupported her Title in the Houſe of Shaubaz Beg Khan, and ſwears to the Identity of the Papers.

Suppoſing all the Witneſſes to be of equal Credit, the Stories equally creditable, and no Circumſtances to direct our Judgment, it would be ſufficient to ſay, that in Anſwer to the poſitive Charge of Two Witneſſes, there are before us the poſitive contradictory Oaths of Four. For all the ſubſcribing Witneſſes have before us been examined, and they ſwear to the Execution of the Deeds by Shawbaz Beg Khan; to his producing them; and their atteſting them reſpectively on the Days on which they bear Date, that is on the 10th and 11th of Ramzaum, (i. e.) the 23d and 24th October 1776; that they atteſted both Papers in the Preſence, and at the Deſire of Shaubaz Beg Khan. The Number of poſitive Witneſſes on one Side, and that in Favour of Innocence double the Number that are on the other Side. But it is not true that the Witneſſes are equally credible, or that there are not Circumſtances to direct our Judgment. We have, in conſidering the Degree of Credit due to Newauz Ally, on the Report ſtated ſtrong Objections to his Teſtimony; and the Account which he gives before us, does not at all tend to weaken them. Before us he has ſworn poſitively to Two Negatives. He ſwears to his being preſent when he ſaw Cojah Zekereah deliver the Papers, publiſh the Claim of the Plaintiff, and that not by Surprize or Miſtake, but after pointed Queſtions had been propoſed to him; as to his actually ſaying and hearing, it was not until his Croſs-Examination that he ſwore he did ſee the Papers delivered; that he did not with his own Ears hear the Diſcourſe; and this though he had before deſcribed the Place where, and the Manner how he had heard: But that is not the ſingle Contradiction of his Evidence; he ſwears, that at this Diſtance he cannot tell what is true, or what is falſe. Both the Subſtance of his Evidence, and the Manner of his delivering it, independent of his Character of an Accomplice, ſufficiently demonſtrate the ſmall Regard which he has for Truth.

He has depoſed, that he gave the ſame Evidence before the Cauzee that he had delivered now in Court.—We will take that Declaration in the moſt limited Senſe, and the Senſe moſt favourable to him, and confine it to what he had ſaid in his Evidence prior to that Declaration. Is it true that he had? If he had, why was it not ſtated in the Report, that after the Death of Shaubaz Beg Khan, he had, at the Deſire of Cojah Zekereah, made *Two* Copies? for in the Report he ſpeaks only to One. Why is it not ſtated in the Report, that the Draught which Cojah Zekereah, when it was laſt brought to him, had been altered in the Time intermediate to his making the Firſt and Second Copies? Why are not Heſitations which he deſcribes, and the Reaſon of them, ſet out in the Report?

There the Story is extremely ſimple, that Cojah Zekereah, after the Death of Shaubaz Beg Khan, brought a Draught of a Will to him. How were all theſe Circumſtances told? How to us to be collected from this ſhort State? Newauz Ally in the Report ſays, he did not know whether the Draught had been prepared in the Preſence of the Deceaſed. Newauz Ally now ſwears that the Hebenamah is the Second Copy that he made, and that it was after one Line had been ſcratched out, another wrote under, and Writing added to the Right and Left, that he made the preſent Copy. Though he might not know whether the Draught in the State in which it was when he made the Firſt Copy, was or was not prepared in the Life-time of the Deceaſed, he had the moſt poſitive Knowledge that it did not exiſt in that State in the Life of Shawbaz Beg Khan, becauſe he knew when the Alterations were made. Yet in the Report he ſays, he does not know whether the Draught had or had not been prepared in the Life of Shawbaz Beg Khan. There is another Circumſtance, minute in itſelf, but which may throw ſome additional Light on this Subject. In the Report Newauz Ally ſwears "That Cojah "Zekereah brought the Draught of a Will to him, which he deſired he would copy fair upon a "*clean Sheet of Paper.*" In his Evidence before us, he ſwears, that Cojah Zekereah brought him the Draught, and Paper *ſprinkled with Gold*, to write it on. It is ſtrange he ſhould remember this Circumſtance of the Paper being ſprinkled with Gold at this Diſtance of Time, when he called it only a clean Sheet of Paper in the Report. Is not this likewiſe a Circumſtance to prove that Newauz Ally in the Report was talking of the Copy ſent to Kabul, which was on plain Paper, and that the Hebenamah, which is on Paper ſprinkled with Gold, was not then before the Council? Is it not Proof that when the Hebenamah had been ſeen by the Defendants, Newauz Ally's Evidence is accommodated to that Deed.

If at a Diſtance from the half-opened Papers he could diſtinguiſh Seals and his own Hand Writing, why, having made the Obſervation, and having ſeen Ghyrut Beg atteſt it, when he was examined to this Paper by the Cauzee, did he not declare that Cojah Zekereah had obtained the Atteſtation of Awauz to it? and if he did declare it, why does it not appear on the Report?

But with regard to the Atteſtation of Ghyrut Beg and Awauz, is flatly contradicted, both by Cojah Zekereah, Ghyrut Beg, and Awauz. They ſwear to the Atteſtation of the Hebenamah and Ekrauram, in Preſence of the Grantor; and Ghyrut Beg ſwears that the Paper, which he atteſted at the Deſire of Zekereah, was another Paper; and that Zekereah then told him he was about to ſend it to Kabul. This confirms what Cojah Zekereah had ſaid as to ſending a Copy to Kabul, to which the Seal of Ghyrut Beg was affixed.

With regard to Kurreem Ullah; who ſwears himſelf to be a Muftee, the Officer and Attendant on the Court, and an Accomplice in this Buſineſs; who is under no Orders but thoſe of the Emperor Shah Allum, but who was appointed by Mr. Lane, Chief of Patna; who, for diſobeying the Perwannah of the Council, would only be puniſhed by the Emperor, by God, and the Tongues of public Report; who choſe to qualify his Evidence with the Word "perhaps;" who ſays Cojah Zekereah, whom he knew then to be impriſoned, knew beſt why he did not take away the Share of the Plaintiff; to be ſure ſwears poſitively to the Deeds being produced in the Houſe of Shaubaz Beg Khan by Cojah Zekereah; but he is One of Two oppoſed by Four. The Manner of delivering his Evidence, the Behaviour of this Witneſs, and the Subſtance of his Evidence, being obſerved by the Court, the Counſel for the Plaintiff called on our Interpreter to depoſe, before the Court, as to the Manner of his delivering his Evidence and his Behaviour. The Court were ſufficiently apprized of it, for we ſaw it. The Appeal from this Court to the King in Council in ſingular, the Evidence being taken before Court. The Court ſees and hears the Witneſſes, and is thereby apprized of their Behaviour; which is one great Advantage of a *vivâ voce* Examination.

But all that can be fixed on Paper, with regard to the Witneſſes on their own Depoſitions, is only what they ſwear: From their Depoſitions, their Behaviour and Manner cannot be traced. This is a Species of Evidence before us, that the Court above cannot have before them on the Depoſition only; yet the Court of Appeal ought to have all before them which was before the inferior Court. As we could not give Evidence, we thought it right to ſupply this Defect as well as we could, for the Information of the Court of Appeal, by examining our Interpreter.

The Evidence of Mr. William Chambers to theſe Points, is no more than what we ſaw, and does not fully come up to our Senſe of the ſuſpicious Conduct of the Witneſs, viſible to the Court.

It is impoſſible therefore that we can give ſuch Credit to his Evidence as to believe him, in Contradiction of a greater Number of Witneſſes who are unimpeached.

This is the Anſwer to the poſitive Evidence; as to the collateral, let us ſee whether the Credit of the Witneſſes is greater.

It is aſſerted, that ſubſequent to the Death of Shawbaz Beg Khan, Cojah Zekereah produced a forged Hebenamah, and endeavoured to get Atteſtations to it. It is ſuggeſted, this was the firſt Copy made by Newauz Ally; that on his being diſappointed as to that, or not being ſatisfied with the Proviſions in it, it was deſtroyed; and then he procured Newauz Ally to write the Second, which is the Paper now in diſpute.

To prove this, ſeveral Witneſſes were called; the Firſt of whom, and who indeed proves moſt, is Cojah Enayat Ullah, who, though his Name is ſimilar, is a different Perſon from the ſubſcribing Witneſs.

This Man ſwears to Cojah Zekereah's ſoliciting him and Syed Ahmud Khaun, in the Preſence of each other, to atteſt an Hebenamah, which he produced, and declared Shaubaz Beg Khan had made in his Life-time; that Syed Ahmud Khan read it; that it had Three Seals to it, which he recollected, and others which he could not recollect—That his Heart would not ſuffer him to atteſt it, becauſe he had not ſeen it made in the Life of Shaubez Beg Khan—That, being acquainted with the Cauzee and Muftees, he was ſo ſolicited to apply to them to affix their Seals to it, and to offer them 4000 Rupees for ſo doing; that he undertook to ſolicit them—That he accordingly did ſolicit Cauzee Suadi and Gullaum Muckdoom, who refuſed, and ſaid it was impoſſible, and could not be done; and that Cojah Zekereah did nothing more to perſuade him to ſign the Paper. On the Croſs Examination, he ſays he went to the Cauzee, *being ignorant of the Laws, to know whether ſuch* a Thing could be done. Surely the very ſtating this Evidence is an Anſwer to its Credibility.

Not to obſerve on the Improbability, if it was really the Intention of Cojah Zekeriah to commit a Forgery, that he would thus openly ſolicit Witneſſes in the Preſence of each other; is it probable that the Man, whoſe Heart would not allow him to atteſt this Paper, ſhould yet be induced to ſolicit others to do it, and to corrupt Judges? Is this Evidence true or falſe? If it be true, that this Man did ſolicit, and offer a Bribe to Cauzee Saudi and Muftee Gullaum Muckdoom, why, as honeſt Men, did they not reſent it? Why did they not make a Charge againſt Cojah Zekereah for it? Why did they not repreſent it to the Council? Why was it not introduced into the Report? Is there any Circumſtance ſo ſtrong in the Report, to prove the Forgery and the Iniquity of Zekereah? yet the Report as to this is ſilent. It is not true; and it is almoſt certain that it cannot be. What, Cojah Zekereah, who knew if the Inheritance was litigated (and Behader Beg had before this declared he would litigate it) ſolicit after the Death of the Grantor, the Cauzee and Muftee to atteſt the Deed? Would not this be poſitive Proof to the Judge, who was to try the Authenticity of the Deed, that it was not genuine?—What Opinion could Zekereah have of the Cauzee and Muftee? What Opinion do they deſire the World ſhould entertain of them, when they themſelves attempt to prove a Bribe offered to them, and have not in the leaſt reſented it, to deter others from the like Practices? Is it not inviting and tempting others to do the like? What is the Cauzee's Anſwer? Not that it was an Inſult to offer it; not that the Thing itſelf was bad, but that it was impoſſible to do it.

If this Story is falſe, what are Cauzee Saudi and Muftee Gullaum Muckdoom doing before us? They muſt know whether they were ſolicited; if they were not, they are knowingly ſuborning a Witneſs to commit Perjury. What Opinion then muſt be entertained of theſe Black Judges Advice in the Provincial Council, which is of Civil Juriſdiction, and themſelves preſide in the Criminal Court? Perhaps Mr. Young may be ſingular in his Opinion, with regard to Cauzee Saudi. It is extraordinary, that this excellent Witneſs was not brought forward in the Report; as extraordinary, that he has been found out only ſince, eſpecially as he was a Friend and Acquaintance of the Cauzee and Muftee. The next Witneſs is Syed Ahmed Khan. He confirms Cojah Ennayut Ullah, as to his being ſolicited, in his Preſence, to ſign the Hebenamah, and the Circumſtance of Cojah Zekereah reading it, and particularly mentioned the Seals that were to it. He ſays, as he heard nothing of it from Shaubaz Beg Khan, he could not witneſs it; that neither of them then witneſſed it; that Cojah Zekereah came a Second and a Third Time. That on Cojah Zekereah's offering to ſwear on the Khoran, that it was a juſt Paper, made in the Preſence of Shawbaz Beg Khan, and that his Seal was to it, he ſaid he would put his Name as a Witneſs, on the Faith of Zekereah's Teſtimony, and that he wrote theſe Words Baſhauduluz Kahood; the Meaning of which is, by the Teſtimony of Witneſſes. He ſays, that if the Paper was ſhewn, it would appear he did it not as atteſting the Fact, as Witneſs to it himſelf, but as being proved to him by other Witneſſes. He ſays, whatever a Muſſulman ſwears he muſt believe.

What Atteſtation then has Zekereah procured to this Paper, to prove the Validity of it? None; for it would appear on the Face of it, he was not preſent at the Execution of it. Is it likely he would be contented with this? And yet, after this, he goes on (if the Evidence be true) ſoliciting others to atteſt it; for it is after this he, by Stratagem, affixed the Seal of Kauder to it; it was after this that he ſolicited Meer Kuttub Alli; for both theſe Witneſſes ſwear they ſaw Syed Ahmud Khaun's Seal to the Paper when it was produced to them. But what is more extraordinary than all is, that this Man, who at the Time the Examinations were taken before the Cauzee, when the Tranſaction was freſh, could not remember the Name of one of the atteſting Witneſſes, yet now, at the Diſtance of Two Years, remembers them with Preciſion. Meer Kuttub Alli likewiſe proves himſelf ſolicited for the ſame Purpoſe, in the Preſence of Iſhmael Beg. He, at the Diſtance of Two Years, likewiſe ſpeaks to the recollection of the Number of the Seals, and particularizes them all but One; that Iſhmael Beg atteſted in the ſame Manner as Syed Ahmud Khaun had done, by adding, Baſhahud Abuz She Hood.

Here there are another Pair of Witneſſes ſolicited in the Preſence of each other, and with a like Effect; one is too honeſt to atteſt it at all; the other does with ſuch a Mark as would make it uſeleſs to the Purpoſe for which Zekereah wanted it; there is indeed this Difference, that Iſhmael Beg ſigned on his ſaying he had taken an Oath, and Syed Ahmud Khaun not on his taking an Oath, but he ſays that he would. But Zekereah is not diſcouraged with having Two ſuch Atteſtations and Two Refuſals; he proceeds on to Gullaum Ahdul Kauder, who tells a different Story. He does not ſpeak of being ſolicited; but ſays, his Seal was put to a Paper which Cojah Zekereah ſaid, was an Hebenamah, without his Conſent and in his Preſence; and this is the laſt Attempt which we hear of, to procure Atteſtations to this Paper; for it is brought to Kauber, and Cojah Zekereah deſtroys it in his Preſence.

Is it poſſible that Cojah Zekereah, (if not a Madman) intending to commit a Forgery, could act as is deſcribed by this Witneſs. This Witneſs's Honeſty is of the Stamp with that of Newauz Ally, for both had reſolved to give Evidence of the Truth, if called, but were willing to conceal the Fraud, if it never came to the Knowledge of the injured Party. Theſe are Witneſſes, who by their own Story refute their own Teſtimony. The Anſwer given to this by Cojah Zekereah, is this, He inſiſts on the Story he told on his Examination; and being confronted with Witneſſes, poſitively denies ſuch Parts of their Evidence as are contradictory to it. He ſays, that he procured the Seals of Ghyrut Beg and Syed Ahmud Khaun, Ennayut Ullah, the ſubſcribing Witneſs to the Deeds to be affixed to the Copy ſent to Kabul, and that it had not the Seal of Iſhmael to it.

He calls on the Court to judge whether he could be ſuch a Fool and an Aſs, to do as is repreſented by Khauder. We have ſeen and heard him, and are of Opinion he could not.

The reſt of the atteſting Witneſſes regularly proved the Execution of both the Deeds.

This is the Evidence on one Side and the other, regarding the Forgery. I have obſerved on the Credit of the ſeveral Witneſſes in ſupport of the Charge, as I ſtated the Evidence. I have not done the ſame with Reſpect to thoſe who ſupport the Deed, becauſe no Obſervation has occurred to me. I cannot conceive an Objection that can be taken to them, except Cojah Zekereah. They are not indeed Men of Rank; but as we knew how extremely difficult it is to induce Men of any Rank to become Witneſſes, and ſubject them to an Examination, that Obſervation certainly has not the ſame Weight in this Country as it would have in England. What adds greatly to their Credit is, that no Attempts have been made to ſhew they were not entitled to it. This Inſtrument they prove has been in Poſſeſſion of the Defendants now Two Years. All that Time they have been apprized of the ſubſcribing Witneſſes, whom the Plaintiff muſt call. They could be no other than the ſubſcribing Witneſſes. The Plaintiff could not change her Witneſſes as the Defendants have done. She was bound to produce thoſe very Witneſſes. Yet, with this Knowledge, for ſo long Time, notwithſtanding the great Pains they have taken to find Witneſſes, and notwithſtanding the Aſſiſtance they have had, they have not been able to procure a ſingle One to impeach the Character of theſe ſubſcribing Witneſſes. With regard to the Circumſtances which may be ſuppoſed to affect the Credit of Cojah Zekereah, they are theſe; his Denial that he was ever Vakeel of the Plaintiff, his Denial that he appointed Hautim to appraiſe for him, and his Conduct at the laſt Examination of him by the Court.

With regard to the firſt, that the Begum aſſented to his Appointment, is far from being proved; with regard to his own Conſent to it, it depends only on the Evidence of Newauz Ally, of Kurreem Ullah, and Anunderam, the Dewan of the Cauzee. As to the Credit due to the Two firſt, I have already ſtated; as to the Second, though unimpeached, he is cloſely connected with the Defendants. Zekereah's Evidence ſtands oppoſed to his; and what he ſays, ſeems from the whole Tranſaction to have too much Truth; viz. that the Whole was a Contrivance to get a Paper from him, which they might call a Conſent from him to their Proceedings. Has he, in Fact, conſented? Has he not, as much as he could, oppoſed them in every Step?

With regard to his appointing Hautim, the Evidence, when fairly compared, has no real Contradiction. Cojah Zekereah was ſent for from Priſon, and was in Cuſtody at the Time of the Deciſion; when both the Plaintiff and he proteſted againſt their Proceedings, and objected to any Diviſion, they inſiſted he would not have any thing to do with the Tranſaction; but finding he muſt ſubmit to the Power of the Council, and ſeeing a Man he knew, ſaid, Then this Man ſhall appraiſe on my Part. He was not ſent for by Cojah Zekereah; a Peon of Government brought him; He was not a Man of Cojah Zekereah's Election. Hautim himſelf ſays, That Zekereah objected the whole Time. Under theſe Circumſtances, might he not ſafely ſay, That Hautim was not appointed by him. With regard to the laſt Circumſtance, his Conduct is totally inexplicable. On my aſking him ſome Queſtions relating to certain Writings under the Seal of the atteſting Witneſſes. Cojah Zekereah, who had been clear and conſiſtent in his whole Story, who had challenged his Oppoſers, who had inſiſted to be heard, who perſiſted in declaring the whole Circumſtances, who defied his Adverſaries at the Peril of his Life, for what Reaſon we cannot tell, became on a ſudden, to all Appearance, equivocating and inconſiſtent. It can hardly be ſuppoſed, that he did not know his own Writing; the Whole is apparently of the ſame Hand Writing: He admitted Part, then denied Part; and at laſt admitted the Whole. This could anſwer no Purpoſe whatſoever, for the Circumſtance was immaterial, and the Tranſaction innocent. What he doubted of, all the ſubſcribing Witneſſes proved inſtantly, without any Communication with him, that it was his Hand Writing, and that it was wrote at their reſpective Deſires. However ſtrange his Conduct was, as it was in an immaterial Circumſtance, and was proved to be a fair Tranſaction, as the Motive for doing, whether Embarraſſment, Confuſion, or other Cauſes, as the reſt of his Teſtimony is clear in itſelf, and delivered with an Openneſs, Warmth, and Zeal, which can hardly ever accompany Fraud and Deceit: As he has been uniformly conſiſtent in ſupporting the Claim of the Widow at all Riſks; as he is ſupported by Evidence, by Probability, and Circumſtances which could not be forged, we cannot think it juſt on this Account to deny Credit to his Teſtimony.

As to the Probability of his Story, we can ſee but one Objection; which is, that any Atteſtations ſhould be required to the Copy ſent to Kabul: That it is a Cuſtom in the Country ſo to do, is not proved. On the other Hand, no Obſervation is made upon it; and no Evidence is adduced that there is any Thing extraordinary in it; and in a Country, where Cuſtoms and Manners differ ſo much from our own, it would be hard from our own Cuſtoms, to draw a Concluſion unfavourable to the Plaintiff, which is even not ſuggeſted by the Defendants.

But in the Story told on the other Side, there is no End of Inconſiſtencies. This Forgery is ſet about without any Accomplice, who was to receive any Benefit from it? Newauz Ally prepares Two Copies from a Draught after the Death of Shaubaz Beg Khan, without any Promiſe of Reward, without any Injunction of Secreſy. That he might not be ignorant that it was to be uſed to a bad Purpoſe, Cojah Zekereah ſolicits Ghyrut Beg and Awauz, in his Preſence, to atteſt it; that Cojah Zekereah might not be ignorant that he could conceal the Fraud, Newauz Ally plainly tells him he is doing a wrong Thing, and that he would detect him if he was called upon, and would tell the whole Truth: But Cojah Zekereah is ſo little intimidated, that he goes on to complete his Purpoſe; and when the Matter comes to be examined before the Gauzee, Cojah Zekereah himſelf calls upon this Man, who had threatened him with telling the whole Truth, to detect him. He is examined before the Cauzee, and what is ſtill more extraordinary, Newauz Ally does not tell the Whole; he does not acquaint the Cauzee with his having ſeen Ghyrut Beg atteſt the Hebenamah, and that Awauz had refuſed: He does not tell the Cauzee he made Two Copies, and that the Draught had ſuffered Alterations; he does not acquaint him with his Doubts, Scruples, and Heſitations; he does not acquaint them with the ingenious Argument of Cojah Zekereah, that a bare Copyiſt was not anſwerable; he does not acquaint them, that he knew the Draught he copied had not been prepared in the Life of Shawbaz Beg Khan; but on the contrary, that he did not know whether it was or not. Why was not Newauz Ally at all introduced into this Buſineſs, but for the Purpoſe of betraying Cojah Zekereah? Cojah Zekereah wanted no Amanuenſis; and writing as good a Hand as he does, Is it credible he would have employed one, without at leaſt ſecuring him to his Intereſt? But the Forgery by Newauz Ally and that of all the other Witneſſes account, is incomplete; and the Hebenamah without Poſſeſſion, is not a good Conveyance; an Ekrauram is neceſſary to compleat it; no Ekrauram is wrote by Newauz Ally; no Ekrauram is produced to the Witneſſes ſolicited to atteſt the Hebenamah. Newauz Ally did not write the Ekrauram; a new Perſon then muſt be made an Accomplice to write that, or the whole Forgery ſhould have no Effect.

This Forgery is committed in open Day. Witneſſes are ſolicited in the Preſence of each other, as if it was the moſt innocent Tranſaction, and no Reward offered as an Inducement to riſk the Puniſhment, or to conceal the Offence.

Atteſtations, which could not avail, are received, and the Number of Accomplices increaſed, without promoting the End, only for the Purpoſe of creating more Means of Detection. Nay, even one Man's Seal is affixed without his Conſent. Every one of theſe Perſons, if the Deed was ſet up, were liable to be called upon to diſprove it, and moſt certainly would.

But that is not ſufficient. Leaſt Nawauz Ally ſhould not do as he ſaid he would, leaſt the others might not convict him, leaſt it ſhould by any Poſſibility eſcape the Knowledge of the Cauzee and Muftees, Ennayut Ullah, is ſent to do what was equivalent to acquainting him with the Forgery, to deſire him to atteſt the Deed after the Death of Shaw Baz Beg Khan. Ennayut Ullah, a Friend of the Cauzees, and no particular Acquaintance of Cojah Zekereah, undertook to corrupt the Judges, and he claims Credit for his Innocence. He went to the Cauzee, becauſe being ignorant of the Laws, he did not know whether it was or was not what the Law would permit.

All this is to be believed on the Credit of Witneſſes unknown at the Time of the Examination before the Cauzee, for the Whole of what is ſtated as Proof before the Cauzee is deſerted, except what related to Syed Ahmud Khan and Nuwauz Ally; not one of the other Witneſſes alluded to, are brought before this Court. Where is Zulficar Ally? He is indeed produced, but not a ſingle Queſtion is aſked him as to the Forgery? Where is Meer Aumierudden, Selabat Khawn, Haukim Cauzee Ali Khaun, and Malcolm the Armenian? None of theſe appear before us; but their Places are ſupplied by Cojah Ennayut Ullah, Meer Kuttub Alli, Golaum Abaul Kauder; not one of which were found, or even their Names mentioned at the Time. This Matter is pretended to have been inveſtigated by the Cauzee and Muftees.

Can there be a more ſuſpicious Circumſtance than finding a Cloud of Witneſſes to a Tranſaction, which from its Nature is ever committed in Secreſy? Does it not grow more ſuſpicious when different Sets of Witneſſes are at different Times produced to ſupport it? Among other collateral Proofs of the Forgery, why did not Behader Beg prove his being adopted by Shaubaz Beg Khan? Why did he not prove Declarations of the Deceaſed, which were ſo frequently made, of Affection and of the actual Adoption? Why did he not prove his being introduced as Heir to the Council at Patna, and to the Governor General? Why did he not prove, that he as Heir, ſigned the Requeſt to the Moulavy? From theſe Circumſtances, ſtrong Preſumption would have ariſen, that it never could have been in the Intention of Shabaz Beg, to give his Eſtate to any other Perſon than Behader, and conſequently that the Deeds were fraudulent.

If theſe People have actually been guilty of Forgery, why have they not before this, been brought to Juſtice? It is now full Two Years ſince the Facts were committed; they have undergone the Scrutiny of Two Criminal Tribunals, one at Patna, the other at Maxadabad, during the Time Mahomed Reza Khan, who, I believe I may ſay, was as intelligent and upright a Criminal Judge as any in this Country; and Cojah Zekereah ſwears, he was by him honourably acquitted, and received Beetlenut in Teſtimony of it. Mahomed Reza Khan is proved to have been Naib Subah at the Time; a Paper, ſaid to be official, with his Seal of Office, has been offered in Evidence, to prove the Acquittal; but from which we draw no Argument, becauſe we doubt the Propriety of admitting it in Evidence on the Proof of Mahomed Reza Khan's Seal of Office affixed to it. There is clear Proof before us, that they have not been convicted. Here are the Men ſtanding before us alive and unmutilated, and free to give their Evidence. How can we then ſuppoſe the Judges who tried them have found them guilty.

Had theſe Deeds come before us to be proved, to ſupport a Title, how could we have pronounced againſt them? All that could be wanting would be a Proof of their legal Effect. The only Evidence as to that, or to any Point of Mahomedan Law, was obtained by Defendants on their laſt Croſs-examination of Cojah Zekereah. He not only proved, that to the Validity and Effect of a Deed, the Cauzee's Name was not requiſite, except a Claim was made before him; but though to the Hebenamah alone a Delivery was neceſſary, yet when it was accompanied with an Ekrauram, Delivery was not neceſſary; and they likewiſe have proved him competent to give his Opinion on theſe Points; for he turns out to be a Lawyer, a Mohateſiſt, Three Degrees under a Cauzee. A complete Title therefore is proved in the Plaintiff.

Upon the Evidence before us, therefore, we are of Opinion, That the Defendants have totally failed in proving the Forgery.

With regard to the Rank of the Parties, Shabaz Beg Kaun, he is proved to have been originally of a good Family in Kaubul, and to have been advanced to high Poſts in the Army, and created an Omrah of the Empire by the King Shah Allum, at the Recommendation of Lord Clive; a Circumſtance that ſhould not make him leſs eſteemed by the Engliſh; that he lived in great State at Patna, and died poſſeſſed of a very large Fortune. With regard to the Plaintiff herſelf, all the Inſinuations and Aſſertions to debaſe her Birth and ſcandalize her Life, are abſolutely falſe. She was the Daughter of a Man of Rank in the Service of the Nabob. She was educated accordingly to her Rank, was the honourable and only Wife of the Deceaſed, and lived with him to the Hour of his Death upon the moſt affectionate Terms. As to the Imputation of being a Dancing Girl, dancing is ſo degrading among the Natives, that it is never made uſe of, or conſidered by them, as it is with us, as an innocent Amuſement.

The Witneſſes that were ſimply aſked whether ſhe ever danced, reprobated the Idea; but being aſked, if ſhe ever had been a common Dancing Girl, were aſtoniſhed with the Queſtion, and anſwered it with Indignation. The Defendants, among whom is Behader Beg, muſt have known the contrary. This then is a premeditated and wanton Abuſe. What is offered in Mitigation on this Head, might with equal Propriety be given in Evidence to a Jury in England, if the Widow of Lord Clive had undergone the ſame Oppreſſions as the preſent Plaintiff, if ſhe had been robbed of what his Lordſhip had bequeathed to her, and had been turned friendleſs and naked into the Streets.

His Lordſhip was of no noble Extraction, and when he firſt came into this Country, not very opulent. Would it be endured, that thoſe Merits which had enabled him and her, ſhould be applied to leſſen her Claim to a Recompence for the Injury, when ſhe applied for Juſtice, that her Oppreſſors ſhould endeavour to load her with Infamy? I have taken already ſo much Time in examining the true Merits of the Cauſe, that I will not ſum them up by Recapitulation, but directly proceed to conſider to what Damages the Plaintiff is entitled. That ſhe has been deprived of Effects to a great Value is clearly proved; rather the Quantum, not the Value of them has been diſputed. The Defendants had in their own Hands Evidence to controvert both, but they have declined. They took an Inventory on the Spot; if they thought more were claimed than they had actually taken, by verifying that Inventory they might have ſhewn that they were overcharged; but they have declined to produce a tranſlate of it. It has been our univerſal Practice to conſider the Production of Perſian Papers without Tranſlates, equal to the Non-production of them; for in that State we can obtain no

Information from them. We were told in Excuſe, that the Inventory was Seventy Feet long, and that the Tranſlation of it would take up Four Days and Four Nights; which at leaſt proves, that the Effects muſt have conſiſted of a very great Number of Articles, and that the Defendants never intended to make uſe of the Inventory in Evidence.—They had Appraiſers at the Diviſion of the Defendants, though the Value ſet on the Goods by thoſe Appraiſers, might have been called to prove the true Value. We therefore muſt underſtand them to be ſatisfied with the Plaintiff's Proofs on both thoſe Points. The poſitive Value of the Goods greatly exceeds Two hundred thouſand Rupees.

But, beſides the Effects proved, ſhe has been expelled from her Houſe, received Indignities improper to her Sex and Quality, has been impriſoned not only in her own Houſe, but at the Durgaw.

And as to the Injury, ſhe has received great Aggravation by the Defendants having, by falſe Repreſentations, engaged the Eaſt India Company to defend them, and by the Nature of the Defence.—But there I muſt obſerve, that the Impriſonment, as far as the preſent Defendants are proved to be concerned in it, ended with the 3d of April. To that Time Peons were by the Cauzee and Muftees placed as Mohuſſals over her. After that Time, and when the greateſt Severities were commenced, the Plaintiff appears to have been taken out of the Defendant's Cuſtody by the Council at Patna, and impriſoned by them expreſsly under a Guard of Sepoys.

To the Third of April therefore, and no longer, we conſider her as under the Confinement of the Cauzee and Muftees; and the Damages we give againſt theſe Defendants, includes only a Recompence for the Impriſonment down to that Period only; and we leave the Plaintiff, if ſhe pleaſes, to purſue her Remedy (for the ſubſequent Impriſonment) againſt thoſe Perſons whoſe Act that Impriſonment was.

The Damages altogether, for taking away the Property, and for the Perſonal Injuries, we eſtimate at 3,00,000 Sicca Rupees; therefore let there be Judgment for the Plaintiff, with Damages to that Amount, with Coſts.

This Cauſe has been defended publicly and avowedly by the Governor General and Council, under the Idea of ſupporting their own Officers; than which nothing can be more juſt and honourable, when they think their Officers have behaved honeſtly and uprightly in the Diſcharge of their Duty; and that they ſo thought we are convinced, by their defending this Action.—But thoſe who repreſented this to them as a Caſe of that Nature, have moſt groſly impoſed upon them.

Though it be honourable to protect their Servants acting bona fide, yet the taking up the Cauſes indiſcriminately, is oppreſſive to the Injured, and turns the Edge of the Act of Parliament from their guilty Agents, and againſt the Company, which it was intended to avenge. By this Means the Coſts of defended and compromiſed Suits, become a heavy Expence, and the Government is continually ſuffering Diſgrace by the unſucceſsful Iſſues of its Cauſes. In England, before the Crown takes up any Proſecution or Defence for its Servants, the proper Officers who manage the Cauſe, examine into the Merits with ſcrupulous Exactneſs; by which Means it is rare, that a Verdict is given againſt the Crown, and the Law Officers eſteem themſelves to have brought a Degree of Diſhonour upon Government, if they miſcarry.

To kick againſt Power at all is great Exertion in the timid Natives, and where Power is ſo deſpotic as in the Provincial Councils, and not very ſcrupulouſly exerciſed, it is amazing that they can ſummon Reſolution enough to look up to a Court of Juſtice. With what Fear and Trembling they do it, is plain from their bringing theſe Actions againſt Native under Agents, and not againſt the Principals. If in this debaſed and cowed State of Mind, they are to ſtruggle with the Riches of the Company, and are to dread the Vengeance of thoſe who are immediately in Power over them, few, very few indeed, will have Courage to apply for Juſtice.

It is evident, by the ſubſcribing Witneſſes having been taken up ſince the Trial, that thoſe who originally impoſed on the Governor General and Council, are ſtill purſuing the ſame Conduct. Two Sets of Witneſſes have already been tried to prove the Charge againſt them, One before the Cauzee and Muftees, and One before us. The Witneſſes have been before Two Phouſdarry Courts, one at Patna, another before Mahomed Reza Cawn. How they eſcaped that at Patna, with their Cauſe prejudged on the Report by the ſame Judges who were to try them criminally, is aſtoniſhing; but it is a different Degree of Guilt to ſtrip Perſons of their Property, from that of taking away their Lives, or maiming their Bodies.

Mahomed Reza Cawn is now no longer Judge of the Phouſdarry Court at Muxadabad. With another Set of Witneſſes and another Judge, God knows what their Fate may be.

Theſe Men, if guilty, have certainly made themſelves amenable to this Court by their Evidence, perhaps for publiſhing theſe Deeds knowing them to be forged, but moſt undoubtedly for Perjury, if the Deeds are not genuine.

If the Gentlemen at Patna conceive themſelves impeached either in Judgment or Probity, ſurely they cannot think it will tend to clear their Character to proſecute theſe Witneſſes in the Black Courts.

It is notorious, that the Engliſh Gentlemen in Power, where they think it of Conſequence, interfere with, and iſſue Orders to the Judges of theſe Criminal Courts. It is ſo much a Matter of Courſe, that we ſee Entries of ſuch Interference made on the Public Books now produced in Court, and Orders given to Mahomed Reza Cawn, with regard to Proſecution of theſe very Men.

In the mean Time we are certain the Governor General and Council are not apprized of the true Merits of the Cauſe. We call upon the Attorney of the Company to lay before them the Evidence in this Cauſe, and to adviſe the Governor General and Council concerning the Behaviour of their Black Officers; and to acquaint them, that we deſire they will ſuſpend any public Proſecution againſt Cojah Zekereah and the other ſubſcribing Witneſſes to the Deed, till ſuch Time as they may have formed a Judgment on the whole Proceedings. If they wiſh for further Information on the Subject, I will be ready to aſſiſt them with ſuch Notes as I have of the Obſervations which I have delivered in giving the Judgment of the Court.

We can have no Intereſt in ſcreening Offenders from Juſtice, but it is our Duty to protect the Innocent and detect the Guilty.

From thoſe who are purſuing them with unremitting Vengeance, theſe unfortunate People can expect neither Mercy nor Juſtice; from the Governor General and Council, rightly informed, they will experience both.

Fort William, the 10th January 1780.

A true Copy of the Notes of Judgment of the Supreme Court, in the Cauſe Nadarah Begum verſus Behader Beg, and others, delivered in by the Company's Attorney.

Geo. Hodgſon,
Secy.

PATNA APPENDIX, No 18.

Mr. Bogle's Letter.

Fort William, the 13th April 1779.

To the Honourable Warren Haſtings, Eſq; Governor General, &c. Council, Fort William.

Honourable Sir, and Sirs,

HAVING received from the Officers of the Supreme Count, Copies of the ſeveral Exhibits and Depoſitions in the Cauſe Nadarah Begum againſt Behader Beg, and the Muſſulman Law Officers at Patna, I have the Honour to tranſmit them encloſed.

Theſe are ſo voluminous and unconnected, and this Cauſe altogether is ſo important, and involves ſo many Points intereſting to the Government of this Country, that I deem it incumbent on me to accompany them with ſome Explanations. In this Conviction I beg Leave firſt to ſtate the Circumſtances which gave Riſe to this Action, and then to compare the Evidence on both Sides, and examine ſome general Points in the Cauſe.

Shawbaz Beg Cawn, the late Huſband of the Plaintiff, was a Native of Cabool, a Province on the Borders of Perſia. He came into Bengal to ſeek his Fortune. After paſſing ſome Years in the Employment of Mr. Watts, a Member of the Council of Calcutta, he went into the Engliſh Army, and about the Time of Meer Jaffier's Succeſſion roſe to the Command of a Body of Horſe. In the Courſe of his Services he acquired ſome Wealth, and at length obtained from the Great Mogul the Grant of an Ultumghah, or free Lands in the Province of Bahar. When the War with Coſſim Ally was at an End, he quitted the Army, and took up his Reſidence at Patna. About this Time he married Nadarah Begum (the Plaintiff) by whom he had no Iſſue. He had a Brother named Allum Beg, who came from Cabool to Patna, and having remained with him ſome Time, returned to his own Country, leaving or ſending Behader Beg, one of his Sons, to live with the old Man. Behader remained ſeveral Years in his Uncle's Family, and was with him at the Time of his Death. This Event happened on the 28th Shawul, in the 1190th Year of the Muſſulman Æra, or the of November 1776, and as Shabaz Beg left no Children, a Diſpute aroſe between Nadarah Begum and Behader Beg, concerning the Inheritance of his Eſtate, which has given Riſe to the preſent Action: Both Parties were living in the Houſe of the Deceaſed; but the Money and the moſt valuable Effects were kept in the Apartments immediately occupied by the Widow. It becomes neceſſary here to trace ſeparately the different Steps which each Party took to obtain or to ſecure Poſſeſſion of the Eſtate of Shawbaz Beg Cawn.

Behader Beg having been treated with great Favour by his Uncle, who, as is aſſerted, had given him repeated Aſſurances that he conſidered him as his adopted Son and Heir, was induced to claim the whole of the Inheritance. Accordingly he preferred a Petition to the Chief and Council at Patna, ſetting forth that Shawbaz Beg had ſent for him from Cabool, had ſaid that he conſidered him as his Son, and had made him his Heir and Repreſentative; that Nadarah Begum was ſecreting and carrying away the Effects; and prayed that Hircarrahs might be ſtationed to prevent her from removing them, that ſuch Part as had been removed might be brought back; and the Cauzee (or Chief Mahomedan Judge) might be directed to enquire into his Right, and to report it to the Council, in order that he might obtain Juſtice. Upon this Petition the Chief and Council at Patna agreed to direct the Cauzee and other Law Officers to take an Account of and cauſe to be collected the Effects of Shabaz Beg Cawn, to ſecure them under the joint Charge of their own People, and of Perſons appointed by the Widow and by Behader Beg, and to allot the Shares of each Claimant according to the Muſſulman Law, and to deliver in to the Council a Report of their Proceedings. In conſequence of this Reſolution, a Precept or Perwannah in the Perſian Language was iſſued to the Cauzee and Muftees (Defendants in the preſent Cauſe) under the Seal of the Council, and Signature of the acting Chief at Patna; which being the Authority by which they immediately acted, an exact Tranſlation of it is here inſerted at full Length.

Exh. (G)

Exh. (H)

Exh. (S)

Company's
Seal
for the Council
of Patna.

May God preſerve you the Cauzee and Muftees in Safety!

Whereas the Two Parties Behader Beg Cawn, the fraternal Nephew of Shawbez Beg Cawn deceaſed, and his Widow, are diſputing concerning the Property, Effects, and other Things left by the ſaid Cawn; it is therefore written, that you the Cauzee and Muftees having ſent People on your own Part, together with Perſons the Vakeels of both Parties, and having made a due and exact *Inventory* of all the Goods, Effects, Ready Money, Houſhold Stuff, Dwelling Houſes, Ultumgaw, Lands, &c. the Eſtate left by the deceaſed Cawn, and having enquired for and carefully collected ſuch Part of his Money and Goods as may be diſperſed, and having *locked them up* in a Place, and having *affixed your Seals* on them, do there *ſtation and place* People to watch on your own Part, and on that of the Parties, in order that no One may be able to embezzle them until the Time of the *Deciſion* *Trial*, and Diviſion, and alſo that *according to aſcertained Facts and legal Juſtice* you tranſmit to the Council a written *Report* on this Cauſe under your Seals, *ſpecifying how much is to be given, to what Perſon*, according to the *Ferâyez* *Coran* and the *Fatwah* *Decrees.* Written the 2d of the Month of January 1777, Engliſh Style, anſwering to the 8th of the Month of Pooſe 1184, Fuſſullee, and the 21ſt of the Month of the Zekaida, the 18th Year of the King's Reign.

Patna, 2d December 1777,

(Signed) Simeon Droz.

The Cauzee and Muftees, the Three laſt Defendants in this Cauſe, and to whom this Perwannah was iſſued, are Officers or Doctors of the Muſſulman Law at Patna, who receive Salaries, and to whom the Provincial Council, and more frequently the Dewanny Adaulut, make References in Suits where the Parties are Mahomedans. The Cauzee or Cadi, is a Magiſtrate well known to any one the leaſt converſant in the Mahomedan Hiſtory. The peculiar and technical Duty of the Muftees, is to expound the Law.

In obedience to the above Precept or Perwannah, the Cauzee and Muftees went to the Houſe of Shawbaz Beg. They there met with Cojah Zekereah, the Son of Shawbaz Beg's Siſter, who had lived ſeveral Years in the Family, and was in great Favour with Nadarah Begum. To this Man they communicated the Orders which they had received from the Council, delivered to him a Copy of the Precept, and ſent a Meſſage by him to the Widow, deſiring her to allow them to take an Inventory of the Effects. Nadara at firſt refuſed to comply; but at length, after ſeveral Meſſages backwards and forwards, and being told that it was neceſſary in obedience to the Order of the Council, that an Inventory ſhould be made, ſhe conſented. Upon this the Cauzee and Muftees told Zekereah, who appears throughout to have been the principal Agent of the Widow, that ſhe ought to appoint a Vakeel or Attorney to be preſent at taking the Inventory; and as ſhe, according to the jealous Cuſtoms of Mahomedans, could not appear, her Nephew, Meer Cawn, and Zulficar Cawn, Perſons known to be of her Family, and in her Confidence, came before the Cauzee, and declared, that ſhe appointed Zekereah her Vakeel, according to the uſual Manner by which Mahomedan Women of Rank conſtitute Attornies. The Declaration of theſe men was taken down in Writing by one of the Muftees; and Zulficar Cawn being deſired to get it atteſted by the Widow, returned with her Seal, which he affixed to the Paper in the Preſence of the Cauzee and others. This Power of Attorney, on Grounds which will afterwards be ſtated, was not admitted in Evidence at the Trial in the Supreme Court.

The Cauzee and Muftees, accompanied by Zekereah, Zulficar Cawn, and Behader Beg, then went into different Apartments of the Houſe, and took an Inventory of the Effects; Perſons, on their Part, wrote a Liſt of the Goods, and the Cauzee having deſired Zekereah to keep an Account of them, on Behalf of the Begum, he ordered Neaz Ally and Nual Sing, who had been in the Service of Shawbaz Beg, and were then in the Begum's Employ, to take alſo an Inventory. Two or Three Days paſſed in this Buſineſs; and as many of the Effects were in the Apartments where the Begum lived, the Cauzee and Muftees were obliged to deſire her to remove out of them to another Part of the Houſe, which, after ſome Difficuty, ſhe did. At Night the Effects were locked up in the Rooms, the Seal of the Cauzee affixed to the Door, and the Keys depoſited under the Joint Seals of Nadara Begum and Behader Beg.

After taking the Inventory of the Effects, the Cauzee and Muftees, in obedience to the Precept of the Council, ſat ſeveral Days examining into the Right to the Inheritance. Behader Beg aſſerted his Title on Grounds ſimilar to thoſe he had ſet forth in his Firſt Petition; adding, however, that the Widow, by the Means and at the Inſtigation of Zekereah, and other Perſons, had, after the Death of her Huſband, forged Two Papers, one a Deed of Gift, and the other an Ekrauram, or general Declaration, containing a Grant of all his Property to her; and had got them ſealed with Shawbaz Beg's Seal, and witneſſed by Zekereah, Gyrut Beg, Enayet Ullah Beg, Mahomed Mazum, and Mahomed Auriz. According to the Report of their Proceedings, given in by the Cauzee and Muftees at the Time the Matter was in diſpute, it appears, that theſe Two Papers were produced before them by Zekereah, the former dated the 10th, and the latter the 11th Day of Ramzan, the Month preceding the Death of Shawbaz Beg; and that Zekereah, whoſe Seal was affixed to them as a Witneſs, gave Evidence that they had been wrote and preſented to the Begum by Shawbaz Beg; and Enayet Ullah, another Witneſs, gave Evidence as to the Authenticity of the Deed of Gift, which laſt both theſe Witneſſes declared to have been written by Neaz Allee. Neaz Allee being produced as a Witneſs before the Cauzee and Muftees, gave Evidence, that after the Death of Shawbaz Beg Cawn, Zekereah gave him the foul Draft of the Deed of Gift, and deſired him to copy it on a clean Sheet of Paper, which he did, and delivered it to Zekereah; that Zekereah told the Witneſs the Draft had been prepared in the Preſence of Shawbaz Beg, but he did not know whether it had or had not. Malcolm, an Armenian, being applied to by Letter to relate a Converſation he had with Ghyrut Beg, one of the Witneſſes to theſe Papers, returned a written Anſwer, "that he had heard from Ghyrut Beg, that a Deed of Gift was not prepared, and not written in the Life-time of Shawbaz Beg:" And the Peon who brought back the Anſwer, alſo informed the Cauzee and Muftees, that Malcolm declared, that Ghyrut Beg ſaid to him, "that the Heba Paper *was not* in the Preſence of Shawbaz Beg, that it *was* after the Death of Shawbaz Beg Cawn." This Anſwer of Malcolm may not of itſelf be conſidered as good Evidence, but it was admitted to be true in the Preſence of the Cauzee and Muftees by Zekereah, the Attorney of Nadara Begum, which certainly made it Evidence. The Letters to and from Malcolm, and the Declaration of the Peon to the above Purport were taken down by the Cauzee and Muftees in the Perſian Language; after which follows a Declaration of Zekereah, "that the ſaying of Malcolm is true." This Paper is authenticated under the Seal of Zekereah. In the Courſe of the Trial ſeveral other Admiſſions, chiefly with reſpect to the Grounds on which his Conſtituent Nadara Begum claimed the Eſtate, and the Affinity of Behader Beg, and his Father Allum Beg to the Deceaſed, were made by Zekereah, and taken down in like Manner under his Seal. The Report ſtates alſo the contradictory Account which Zekereah gave of the Deeds under which the Begum claimed, and of another Deed which Behader Beg's Vakeel aſſerted he had fabricated and deſtroyed.

Exh. I.

It would extend this Letter beyond Bounds, were I to enter minutely into the Enquiry made by the Cauzee and Muftees. Having finiſhed their Examination, they delivered in their Report to the

Chief and Council at Patna, in Perſian, under their Seals, declaring, "that the Deeds produced by Nadara Begum appearing to them unworthy of Credit, and from many Circumſtances ſpurious, that being confirmed in this Belief by the contradictory Relations of Zekereah, and an Ekrauram not being a Foundation of Property; for theſe and other Reaſons they gave it as their Opinion, that Nadara Begum ſhould take a Fourth Part of the Houſes and Effects of Shawbaz Beg, and that the Remainder ſhould be given *into the Charge* of Behader Beg, whoſe Father Allum Beg was the legal and reſiduary Heir.

Depns. N° 24. 29. When this Report was read before the Council of Patna, the Vakeels of both Parties were preſent. Some Queſtions were aſked about them; they made no Objections to the Report; and the Council reſolved, that the Deciſion of the Cauzee and Muftees ſhould be carried into Execution. Exh. I. But beſides the Share of Houſes and Effects which thereby fell to Nadara Begum, they agreed, that ſhe ſhould receive a Fourth Part of the Annual Rent of Shawbaz Beg's Ulrumgah. The Council at Patna agreeable to this Reſolution, iſſued another Precept or Perwannah in the Perſian Language to the Cauzee and Muftees; and as this is the Warrant and Authority by which the Defendants Exh. U. divided the Eſtate, and thereby ſubjected themſelves to the preſent Action, it deſerves particular Attention. The following is a Tranſlation of it.

Seal of
the Company
for the
Council of
Patna.

May God preſerve you, the Cauzee and Muftees!

Concerning the Eſtate of Shawbaz Beg Khan, deceaſed, about which there was a Diſpute between Behader Beg the fraternal Nephew, and Nadara Begum the Wife of the deceaſed Cawn, you the Cauzee and Muftees, by the Order of Council, and according to Law, having determined that the Eſtate of Shawbaz Beg Cawn, being divided into Twelve Parts, Three Parts belong to Nadara Begum, the Wife of the deceaſed Cawn, and Nine Parts to Allum Beg, the Father of Behader Beg, who is the maternal Brother and Couſin, by the Father's Side, of the deceaſed Cawn. In this Caſe Nadara Begum ſhould take a Fourth Part of all his Effects, Houſes, &c. and the Remainder ſhould be given into the Charge of Behadar Cawn, whoſe Father is Sahel Furz and Aſba. It is therefore written, that you the Cauzee and Muftees, of the Effects, Houſes, &c. of Shawbaz Beg Cawn, and alſo of ſuch Things as may be diſperſed, having collected them together, *do deliver Three Parts to Nadara Begum*, and *give the Nine Parts* which belong to Allum Beg, *in Charge of Behader Cawn*, the Son of Allum Beg; and that Behader Cawn, on the Part of Allum Beg holding and keeping Poſſeſſion of the Property in Ultumgaw, ſhall, out of the Produce thereof, and according to the above Rule, give Three Parts to Nadara Begum, during her Life-time, Year by Year. Written the 28th of the Month of January, 1777, Engliſh Style, anſwering to the 26 of the Month of Pooſe, in the Year 1184 Fuſſullee.

Signed in Engliſh,
Patna, 20th January 1777,
Simeon Droz.

In Conformity to theſe Orders, the Cauzee and Muftees went to Shawbaz Beg's Houſe, ſent a Meſſage to Nadara Begum, that they were come to divide the Effects, and deſired her either to remove to the other Quarter of the Houſe, as ſhe had done before, or to ſend the Effects into the outer Apartments. The Begum having at length quitted the Rooms where ſhe was, and gone to another Part of the Houſe, the Defendants entered them; and the Begum, either chagrined at her Diſappointment in not having obtained the whole of her Huſband's Eſtate, or at leaſt, being obliged to quit her Apartment, quitted the Houſe, contrary to the Deſire and Remonſtrances of the Defendants. On leaving the Houſe, the Begum retired to a Place called the Durgah of Shaw Arzaun, in the Environs of Patna. The Cauzee and Muftees proceeded to divide the Eſtate, being attended by an Ameen, and other Officers of the Council. Having ſent for Zekereah to be preſent on Behalf of Nadara Begum, he appointed Hadjee Hatim as Appraiſer on her Part, and Behader Beg in like Manner appointed Mahomed Comaul his Appraiſer. Theſe People valued the Goods, formed exact Inventories of them; and having divided them into Four Shares, Zekereah choſe One for the Begum, which was put into a Room, together with the Jewels, and ſome other Articles, which were not divided. This Share it ſeems ſtill remains in the Houſe at Patna, Zekereah and his Conſtituent the Begum, not chuſing to take it away. The remaining Shares were taken Poſſeſſion of by Behader Beg on the Part of his Father.

The

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The Begum remained ſome Months at the Durgah, to which ſhe had retired. She carried with her the Grant of the Ultumgah and all the Slave Women, who, according to the Mahomedan Law, are Part of the Inheritance. In order to get her to deliver them up, Meſſages were ſent to her, and Methods ſtill more harſh were uſed. Theſe form a great Part of her Complaint. But the Hardſhips which the Begum is ſaid to have ſuffered at the Durgah, will perhaps appear to have been in no wiſe occaſioned by the Defendants, unleſs it be argued, that the original Complaint of Behader Beg, and the Examination into it by the Cauzee and Muftees, were the primary Cauſes of all the Injuries of which ſhe complains.

Nadara Begum, on the contrary, endeavoured to ſhew that ſhe was in a rightful Poſſeſſion of all her deceaſed Huſband's Eſtate, which he had in his Life-time made over to her by the Deed of Gift and Ekrauram beforementioned. That the Defendant placed People as Guards round her Houſe, ſearched every one that went out, came themſelves, took an Inventory of all the Effects in the Houſe, and ſealed them up; that ſhe did not appoint Zekereah her Vakeel, but, on being urged by the Cauzee, ſent her Seal, deſiring him to appoint whom he pleaſed; and that he appointed Zekereah, and affixed her Seal to the Power of Attorney; that the Cauzee and Muftees did not examine into the Right of the Eſtate; that they never *ſaw* the Deed of Ekrauram; that they deſired her indeed to produce them, but ſhe refuſed, and only gave Copies of them; that the Cauzee and Muftees acquainted the Council at Patna, that the Deed of Gift and Ekrauram were forged; that Zekereah was called before the Council, and produced theſe Papers, which were ſtopped by the Chief; that Zekereah, and the other Witneſſes to the Deed of Gift and Ekrauram, were thrown into Confinement, to be tried in the Phouſdarry Adaulut for Forgery; that the Defendants came to her Houſe, and obliged her to quit it; that when ſhe quitted the Houſe, they attempted to ſearch her; that ſhe and her Slave Women took Refuge in the Durgah of Shaw Azam, where Guards, firſt of Hicarrahs, and then of Sepoys, were put over her, to prevent her receiving any Suſtenance; and that, but for the Charity of the Faquiers, ſhe muſt have died of Hunger; that ſhe at length quitted this Sanctuary, and came to Calcutta, where ſhe inſtituted an Action for Treſpaſs againſt Behader Beg, the Cauzee, and Three of the Muftees.—The above Abſtract of the Caſes of the reſpective Parties, formed partly from the Proceedings of the Chief and Council of Patna, and partly from what was argued or proved at the Trial, is meant only to convey an Idea of the Nature of this Action. I beg Leave next to ſtate the Proceedings in the Cauſe.

The Plaint of Nadara Begum contains Five different Counts, viz. Battery, Impriſonment, Breaking the Houſe, turning her out of the Houſe, taking and carrying away her Goods; and the Damages are laid at Six Lacks of Rupees. To this Behader Beg, the Firſt Defendant, pleaded that he was not ſubject *to the Juriſdiction* of the Supreme Court; and at the ſame Time he, together with the other Three Defendants, Cauzee Sahdee, Muftee Barractoolah, and Muftee Gullaum Mukdoom, pleaded the *General Iſſue* of Not Guilty, and gave in Two ſeparate *Notices of Juſtification.*

The Plea of Behader Beg to the Juriſdiction came on firſt to be tried. The Point on which this Queſtion turned was, whether or not he was Aumil of Gidore and Amertoo (Two Diſtricts in the Province of Bahar) and employed in collecting the Revenue of theſe Places, and whether he was not thereby in the Service of the United Company, and an Object of the Juriſdiction of the Supreme Court.

To prove this, the Plaintiff brought Meer Cawn, her Nephew. He ſays, that
Dep. Nº 1. "Behader Beg holds the Place of Phouſdar of Gidoor under the Company; that he collects the Revenue, and pays it to the Company; that he once ſaw him pay the Revenue *which he collected* to the Company's Treaſurer; that he has heard him give Orders to his Naib, or Deputy, about the Collections;" but he afterwards ſays, that "*he never ſaw* Behader Beg, or his Naib, *make the Collections.*" It is difficult to diſtinguiſh ſuch Part of this Man's Evidence as is founded on Hearſay, from what he ſpeaks of his certain Knowledge. His Evidence, in general, ſeems to go upon a ſuppoſed Notoriety of the Facts, and is given with little Diffidence, for he concludes with ſwearing, "that Behader Beg was *not Security,* either before or *after* the preſent Time, for the Payment of *any* Revenue." A more cautious Witneſs would not have attempted to prove a Negative on ſo general a Queſtion. But the Fact is, Behader Beg was Security for the Diſtrict of Gidoor, as is proved by the Oath of Mr. Young.—Amatoolah, another
Dep. Nº. 2. Witneſs on the Part of the Plaintiff, ſwears that Behader Beg ſucceeded Shawbaz Beg, as Ohenadar of Gidoor, and appointed a Deputy, who collected the Revenue. That he did not go into the Pergunnah, but had it from reputable People. The Remark made on the Evidence of the former Witneſs, may be applied alſo to this Man.—
Dep. Nº 3. Mr. Young ſwears that Gidoor and Amertoo are farmed out to Zulficar Ally, and that Behader Beg *is Security* for him. He ſays, indeed, that he does, though not from any thing particular, *ſuſpect* Behader Beg to be the real Farmer, and that a Security may employ the Power of Government, under a general Order, to aid the Farmer for whom he is bound.

PATNA APPENDIX, N° 18.

(a a) Juſt. Hyde's Opinion.

There were no other Witneſſes examined to this Point, " Mr. Young's Suſpicion and Account of " the general Courſe of Buſineſs, coupled with an Evidence ſpeaking of public " Notority," was conſidered a ſufficient Proof that Behader Beg was really, though not nominally the Farmer, and the Court, upon the Evidence of theſe Witneſſes, found him to be the Farmer, or Perſon collecting the Revenues, and therefore in the Service of the Company, and ſubject to their Juriſdiction. The Queſtion as to a Farmer's being ſubject to the Supreme Court, having never before been directly agitated or determined, the Judges thought proper to deliver ſolemn Opinions: Copies of which are encloſed.

By the Determination of this Queſtion, the Juriſdiction of the Supreme Court is thus extended over a very numerous and important Claſs of People, on the Principle of preventing the Oppreſſions and Exactions which Perſons inveſted with Authority, and concerned in the Management of the Revenue, are apt to commit, by rendering them amenable to ſo rigid and impartial a Tribunal. A Purpoſe ſo benevolent engages Applauſe at firſt Sight; yet many Objections and Inconveniences, ariſing from the peculiar Situation of this Country, preſent themſelves on the ſlighteſt Reflection; and the Farmers and Officers of the Revenue, knowing that they are liable to be proſecuted in a Court of Engliſh Law, for every Act of Authority obliged to eſtabliſh the Equity of Modes and Cuſtoms, which are naturally different, and often repugnant to thoſe Principles, which an Engliſh Lawyer conſiders as the Foundation of Juſtice, and expoſed to all the Coſts and Vexations of a Law Suit, may well be afraid to undertake an Employment attended with ſo much Danger.

The Plea of Behader Beg to the Juriſdiction being thus over-ruled, the Plaintiff proceeded to examine Witneſſes in ſupport of her Caſe, as will appear by the accompanying Depoſitions. The deſultory Manner in which they ſpoke to the Witneſſes, gave Evidence, and the variety of Points which they ſpoke to, may render it neceſſary to divide the Caſe into different Heads, of

Taking an Inventory of the Effects.
Sealing them up.
Appointing Zekereah, Vakeel, or Attorney.
Turning the Plaintiff out of the Houſe.
Dividing the Effects.
Oppreſſions at the Durgah of Shah Azam.
The Deed of Gift and Ekrauram in favour of the Plaintiff.
Taking an Inventory of the Effects.

Dep. N° 4.

Zekereah gives Evidence, that the Defendants came to the Houſe of Shawbaz Beg Cawn, produced the firſt Perwannah of the Council, inſiſted upon locking and ſealing up the Effects, and that the Begum, after many Proteſtations and Objections, ſubmitted. He ſays, they were Two Days in taking an Inventory, the Second Day being that on which they finiſhed it. " That" *being turned out*, yet, that he was preſent the whole Time, from the Cauzee's firſt coming till the Doors were ſealed up; " That" he does not remember that Nowal Sing or Neaz Allee were preſent the Firſt Time, and ſaw theſe Two Men come and go from the Plaintiff, but did not ſee them make any Inventory; that he does not remember the Second Day of taking the Inventory, that the Cauzee's Dewan deſired one of them to take a Copy of what was written, but *he does not remember* that he did; that one Day the Defendants came and took an Inventory, and *he did not ſee* either Nowal Sing or Neaz Allee; but *the Second Time* one of them *took* an Inventory, but he does not remember which; that the Firſt Time that they came, he gave no Order to take an Inventory; that he never gave an Order to take an Inventory; that he ſaw no Inventory in the Hands of *any* of the Plaintiff's Servants; and yet on being further queſtioned, he acknowledges that 5, 8, or 10 Days before the Time of his Examination, he did ſee an Inventory in the Hands of Budinaut, the Plaintiff's Vakeel.

It is difficult to reconcile Zekereah's Evidence. Being turned out, he *could not ſee* them take an Inventory; yet he ſwears that *he was preſent* the *Firſt* Time of taking it; he was preſent even the *whole* Time; he remembers alſo the *Second* Day (and it only took up Two Days) that Nowal Sing or Neaz Allee were deſired to take a Copy of it, but he does *not remember* that he *did* take an Inventory; he *ſaw no* Inventory in the Hands of the Plaintiff's Servants, and then he owns he did ſee an Inventory; in her Vakeel's Hands.

Dep. N° 32.

Anunderam, a Witneſs for the Defendant, ſwears, that he went with the Defendants; that he took an Inventory; that Neaz Allee and Nowal Sing likewiſe took an Inventory on Behalf of the Plaintiff; that *Zekereah deſired* Nowal Sing to take an Inventory and he confirms this on his Croſs-examination.

Dep. N° 33.

Kurreem Ullah, another Witneſs on the Part of the Defendants, ſwears, that he was preſent the Second Day; that the Cauzee's Mutſuddy took an Inventory, and that *Zekereah* Mutſuddy took an Inventory; that firſt Nowal Sing took it, and then Neaz Allee; that he was preſent, and heard Zekereah order Neaz Allee to take an Inventory, ſaying, " that which the Cauzee's People are writing, do you write;" that Nowal Sing and Neaz Allee took an Inventory; that they did not copy what the Cauzee's People were writing; that Zekereah himſelf pointed out the Things, and ſaw what his own People wrote, ſealing up the Effects.

Dep. N° 4. Zekereah ſwears, that the Plaintiff having at length conſented, Cauzee Sahdee and Muckdoom ſealed up whatever Apartments Behader Beg pointed out to them, and went away; that the Plaintiff was obliged to remove from Apartment to Apartment as they ſealed them up, till at laſt ſhe remained in a Part of the Out Houſes; that Sahdee and his Dewan kept the Keys; that the other Defendants were preſent; that Muckdoom put the Plaintiff's Seal on the Door, and then put it in his Pocket.

Dep. N° 6. Meer Cawn, another Witneſs for the Plaintiff, and Anunderam a Witneſs of the Defendants, confirm the material Circumſtances as to the ſealing up. The Points in which they differ do not appear material.

Appointing Zekereah Vakeel or Attorney.

The Importance of this Point renders it neceſſary to ſtate the Evidence fully. Zekereah ſays nothing about it, till forced by a Croſs-examination. He ſays, when the Defendants came to the Plaintiff's Houſe, they did not ſend in to her about appointing any Perſons on her Behalf; but the Second or Third Time, after a great Part of the Inventory was made, they conſulted together, and the Cauzee ſent a Perſon to the Plaintiff to deſire her to appoint ſome one to be preſent while they wrote the Remainder of the Inventory; that he did not act as a Mutluk (Plenipotentiary) Vakeel to the Plaintiff. When the Cauzee ſent to the Plaintiff for a Perſon to be preſent on her Part, a great deal of Argument paſſed on both Sides about it, the Iſſue of which was, that the Plaintiff ſent her Seal to the Defendant Sahdee, and ſaid, You may appoint my Nephew, if you pleaſe (meaning Zekereah). That they then wrote ſomething, he does not know what, and put the Seal to it; that all this paſſed on the Evening of the Second Day, which was the Day of finiſhing the Inventory; that the Plaintiff objected to appointing a Perſon on her Part, becauſe ſhe did not conſent to their Proceedings, and aſked, whether this was a Contrivance to get her Conſent? and that ſhe therefore ſent them her Seal, and deſired them to appoint whom they pleaſed; that the Argument which they propoſed was in theſe Terms, "Here is your Nephew, appoint him to be preſent for you." The Plaintiff's Anſwer was, "There is my Nephew, and the Nephew of the Deceaſed Shawbaz Beg Cawn, appoint *whom you pleaſe*, I will appoint no one."—That Cauzee *Sahdee put the Seal in his* Pocket, and kept the Paper, ſaying, Now it was done; that he Zekereah did not agree to it; and if the Plaintiff appointed him her Vakeel, why was not the Paper given to him: That Muckdoom put the Plaintiff's Seal on the Doors, and then put it in his Pocket; that he was preſent the whole Time, from Sahdee's firſt coming till the Seals were put on the Doors; that he was brought from Priſon at the Diviſion of the Effects, to the End that if this Matter ſhould come to a Hearing, they might have it to ſay, that he was preſent on the Part of the Plaintiff, and might produce the Power of Attorney.—He ſays alſo, That he did not, as Attorney, appoint one Hodjee Hatim an Appraiſer; that he was in Priſon, and why ſhould he appoint him?

Dep. N° 6. Meer Cawn alſo does not mention this Subject till he is croſs-examined.—He ſays, That previous to the Inventory being taken, the Plaintiff did not appoint any Vakeel—That Cauzee Sahdee required her to appoint one, and the Plaintiff refuſed; when ſhe perſevered in her Refuſal, and the Cauzee inſiſted violently upon her conſenting to it, her Friends adviſed her to ſend the Seal to him, that he might do as he pleaſed—That the Defendants aſked him to witneſs a Paper produced by the Defendant Muckdoom; that he refuſed, ſaying, he has plundered the Houſe, why ſhould I witneſs it? but they uſed many Perſuaſions, ſaying, it was the Cuſtom, it did not ſignify, that the Plaintiff was a Woman without Underſtanding.—That the Plaintiff was not preſent—That he does not know the Contents of the Paper; he did not read—That they told him to ſit down, and they then wrote a Deſcription of his Perſon—That he does not know whether he wrote any thing or no—That they ſaid the Paper was an Appointment of Zekereah as Vakeel on Part of the Plaintiff; but Zekereah proteſted againſt it, and ſaid, he would not act as Vakeel—That he does not know that Zekereah appointed Hatim to appraiſe the Goods.

Dep. N° 32. Anunderam gives the following Account of this Matter: "That when the Begum conſented to taking an Inventory, the Cauzee and the Defendants ſaid, that it was proper a Perſon ſhould appear on her Behalf to ſee the Inventory taken; that he did not ſee any Paper of Agency produced by Zekereah; that Zekereah brought Two Witneſſes, Zulficar Ally Cawn and Meer Cawn, before the Cauzee, to prove that the Plaintiff had appointed Zekereah her Vakeel; that afterwards a Vakeelutnama (Power of Attorney) was wrote by Muftee Gholam Muckdoom, in his Preſence; that the Cauzee deſired Zulficar Ally to get it atteſted by the Plaintiff, who in the Preſence of the Witneſs went to the Begum, and brought back a Seal; that he does not know whether Zulficar Ally or Zekereah ſealed the Paper; that he was not previouſly acquainted with the Plaintiff's Seal, but knew it to be hers by looking on the Paper; that the Cauzee kept the Paper; that if he ſaw the Paper on which the Seal was affixed, he ſhould know it; that the Plaintiff's Seal and Muckdoom's Seal was on it; that Muckdoom wrote it, and that it contained a Deſcription of the Perſon; that he did not make any Mark on the Paper, but ſhould know it by the Hand Writing, and by the Impreſſion of the Seal, as he believes the Plaintiff's Name was on it; that Zekereah was the Vakeel appointed by the Plaintiff; that he was preſent when the Two Witneſſes were there; that he was not preſent when Zekereah was appointed, but *he heard* Zulficar Ally and Meer Cawn give their Evidence before the Cauzee, in the Preſence of him and the Muftees; that Zekereah made no Objections at the Time of taking the Inventory.

It was attempted at the Trial to produce other Evidence as to the Execution of the Power of Attorney, as Kurreem Ullah, Zulficar Ally, and ſeveral other Witneſſes, were preſent at the Time; but the Court would not allow them to be examined, unleſs they could ſpeak to the Plaintiff's having perſonally conſented to appoint him.

It is certain that the Plaintiff would have wiſhed to avoid appointing a Vakeel. Perſons complained againſt or ſued, never anſwer willingly; they are compelled to it by the dread of the Cauſe going againſt them, ex parte. But the Validity of Zekereah's Appointment turns on the Queſtion, "Whether Two Perſons of the Family of a Woman of Rank, coming and making a Declaration that ſhe appoints a particular Perſon her Vakeel, bringing her Seal, and affixing it to the Power of Attorney, is ſufficient to conſtitute a Vakeel, or whether it is neceſſary to prove that ſhe ordered theſe Perſons to make this Declaration?" The Defendants in the preſent Caſe inſiſted, that the former was the uſual and eſtabliſhed Practice amongſt Muſſulmen; but the Court inſiſted on the latter, and would not allow the Power of Attorney, or any Admiſſions of Zekereah made under it, to be given in Evidence until the Plaintiff's Conſent was previouſly eſtabliſhed. It was argued on the Part of the Defendants, that in the Supreme Court an Attorney in a Cauſe is appointed merely by a Warrant ſigned by the Party, or by ſome one for him; that the Court never examine whether the Appointment is made by the Party or not, but conſider every Admiſſion of an Attorney in the Name of a Client, but by the Attorney, as concluſive againſt him; that the Appointment of Zekereah was made with much Regularity and more Precautions; that he was and ſtill is the Perſon moſt in the Begum's Confidence; that he acted as her Attorney, produced the moſt confidential Papers, and was actually employed by her to aſſert her Rights before the Cauzee and Muftees; and that under theſe Circumſtances, and according to the Muſſulman Law, the Cauzee and Muftees were juſtified in having conſidered him as Attorney, even although the Plaintiff or Perſons dependant on her ſhould now retract their former Declaration, and deny that ſhe ever nominated him; that the Plaintiff's Conſent and Nomination is eſtabliſhed even by the Evidence of Zekereah himſelf, who ſwears that ſhe ſent her Seal to the Cauzee, ſaying you may appoint my Nephew Zekereah if you pleaſe.

Turning out of the Houſe.

The Evidence that relates to this Point, is contained in the Depoſitions of Zekereah, Meer Cawn, and Munna. The Subſtance of Zekereah's Evidence is, That the Cauzee and Muftees locked up all the Apartments where the Effects were, ſo that ſhe was obliged to remain in the Out Houſes. Meer Cawn confirms this; and ſays, the Plaintiff remained in a Paſſage leading from the Houſe; that the Cauzee ſaid ſhe ſhould not live in the Houſe, as the Matter was not determined by the Council, and the Muftees expreſſed their Approbation of what the Cauzee ſaid; that the Cauzee alſo in their Hearing ſent a Meſſage by the Witneſs to the Plaintiff, informing her that ſhe muſt leave the Houſe and take another; that the Plaintiff and her Attendants made a great Outcry, quitted the Houſe, and went to the Durgah; the Cauzee's Peon's attempted to ſtop her, and to ſearch her, but did not; that the Defendants were in the Houſe when ſhe left it, having come One or Two Gurrus before. Munna ſays that the Plaintiff remained all Night in the Neceſſary, and next Morning left the Houſe becauſe the Cauzee obliged her to quit the Houſe.

Dividing the Effects.

Zekereah was confined by the Council at Patna, in order to be tried for Forgery, previous to the Diviſion of the Effects, and was brought to the Houſe to be preſent on the Part of the Plaintiff. He ſays he was brought by Force; he ſays, "that he *ſaw* the Defendants divide the Effects," and that "he did not ſee them; that all the Defendants ſaid they had divided *all* the Effects;" that "he was kept at a Diſtance;" that "he was near enough to ſee the Effects divided;" that they were divided into Four Shares, one of which they ſet apart for the Begum, and gave the other Three to Behader Beg; that he never ſaw the Plaintiff receive her Share, and does not know that any Part of the Effects ever came into her Hands; that there was a Man, whom they called a Servant of an Ameen, preſent at the Diviſion.

Dep. N° 7. Anunderam, a Witneſs for the Plaintiff, ſays, "that the Defendants went to the Houſe; that the Cauzee ordered the Witneſs to call Brokers to value the Jewels, and deſired another Hircarrah to bring Zekereah from Priſon; that the Witneſs brought Four or Five Delolls and an Appraiſer; that they divided the Effects into Four Shares, and gave Three to Behader Beg, and kept One for the Plaintiff; that the Cauzee deſired Zekereah to chuſe the Plaintiff's Share, but he ſaid he had no Buſineſs to make a Choice; that when Zekereah found the Plaintiff's Share unreaſonable, he took a Piece of Cloth and flung it into the Water.

Dep. Nº 32. Anunderam, Witneſs for the Defendant, ſays, He was preſent when the Eſtate was divided; that Zekereah, as Vakeel for the Plaintiff, appointed Comaul and others; that they made Four Shares; that Zekereah, or Iſhmael by his Orders, took One Share and put it in a Room, and the other Three Shares were delivered to Behader Beg; that the Room where the Plaintiff's Share was left, was faſtened with a Padlock, and the Cauzee kept the Key; that a Seal was put on that Room; that an Offer was made to Zekereah to take the Share, that he anſwered, there are my People to take Care of it, and appointed Iſhmael; that Zekereah not being preſent ſome of the Days of the Diviſion, Iſhmael, by Zekereah's Order, uſed to take the Plaintiff's Share; he ſaid that Zekereah made many Objections at the Time of the Diviſion, ſaying, that he had no Buſineſs to take a Share; but that he afterwards agreed to divide the Eſtate, and appointed Hajee Hatim to divide the Eſtate; that the Begum's Share was put in the Room, and does not know what became of it; that he verily believes the Houſe is in the Care of Behader Beg.

Dep. Nº 33. The Evidence of Kurreemoolah, relating to the Diviſion, as contained in the Depoſitions, begins with the Words, "Yes they were." As the Queſtions put to Witneſſes are not written down, but mixed with the Anſwers by the Clerk, in taking the Evidence, it is impoſſible to ſay what theſe detached Words allude to, or how far they are material. He proceeds to ſay, that a Jeweller and Hajee Hatim came to appraiſe the Goods; that he does not remember who brought Hajee Hatim, but Zekereah ſaid, "This Man is come to appraiſe the Things on my Part." That Comaul and the Jeweller came on the Part of Behader Beg; that the Jeweller appraiſed the Jewels; that Hajee Hatim appraiſed the Shawls, Table Furniture, Carpets, Wearing Apparel, Broad Cloth, Fine Cloths, Muſlins, Silks and Stuffs; that the Effects were divided into Four Shares, and Zekereah approved of one, and ordered Iſhmael to take up the Goods he approved; that one of the Days Zekereah pointing to the Effects, ſaid, "Don't take this, take that." That the Plaintiff's Share was given to Zekereah, who gave it to Iſhmael, who put it into a Room that was locked up, and the Key kept by the Cauzee, leſt any Body ſhould take the Goods away, and he ſhould be anſwerable. He ſays, that Zekereah was in Confinement; but that, by the Muſſulman Law, in which he is verſed, if the Underſtanding of a Man is right, his Act his legal, though he is in Confinement.

Dep. Nº 39. Hajee Hatim ſays, He was called by the Sircar's Peons, and that he and ſeveral other Brokers went there; that on his Arrival Zekereah ſaid, Haujee Hatim will ſtand Dulol on my Part; that Comaul and Nunderam were named by Behader Beg; that the Cauzee ordered them to make Four Shares, which the Witneſs and the other Appraiſers did; that Zekereah was preſent the Firſt Five Days of the Diviſion; that he firſt objected to taking a Share, but being told, it was the Council's Order, he took One of the Shares, and ordered Iſhmael to put it into a Room, which he did every Day; that the Cauzee kept the Key of the Room; that the valuable Goods were divided; thoſe of leſs Value were not divided, but wrote down. On being croſs-examined, he ſays, that at the Inſtant of his coming, Zekereah ſaid, "Hajee Hatim will take the Account for me;" that he is ſure of this; that Zekereah and he uſed to read Prayers together.

Dep. Nº 40. Shebuckrain ſays he is a Writer under the Jemadar of the Council; that he was ſent to take an Account of the Diviſion; that Zekereah at firſt objected to taking a Share, but being at length prevailed on by the Cauzee, he conſented; that he, the Witneſs, the Cauzee's Writer, Behader Beg's Writer, and the Ameen, took an Account; that he compared his Account with all the other Accounts, and found them agree; that he ſhould know the Inventory.

It muſt ſeem extraordinary, that although it appears an Inventory was taken by the Cauzee's People, and alſo by the Plaintiff's People, at the ſealing up, and it appears by Zekereah's Evidence, that the Plaintiff's Vakeel was in Poſſeſſion of this Inventory immediately before the Trial, that ſeparate Accounts of the Effects were taken at the Diviſion, and compared together, yet no Inventory was produced at the Trial, although the Attornies on both Sides were ſerved with Notices to produce them. To account for this, it is neceſſary to obſerve, that theſe Inventories were in Perſian, and that no Perſian Paper is received, unleſs a Tranſlation accompanies it. Theſe different Inventories were extremely voluminous, and were in Poſſeſſion of the Witneſſes who took them. They were foul Drafts, from which fair and complete Inventories of the Effects at the Diviſion, were made out, and atteſted by the Chief and Council at Patna, by the Cauzee and Muftees, and by the Appraiſers. This appearing the moſt regular, and being authenticated, was tranſlated, and delivered in Evidence. One of them was about 50 Feet long, but as the Court gives no Faith to the Atteſtations of the Chief and Council, nor to that of the Cauzee and Muftees, whom they conſidered not as public Officers, but as Individuals and Parties in the Cauſe, it was not admitted in Evidence; and it being alſo a Maxim of the Law of England, that verbal Teſtimony cannot be given as to a Matter of written Evidence, if it exiſts, the Witneſſes, neither Haujee Hatim, Sevakram Anunderam, nor others, who were preſent at the Diviſion, were allowed to ſpeak as to the Amount or Value of the Effects. The Plaintiff, by her own Witneſſes, appears alſo to be in Poſſeſſion of an Inventory, which, though Notice had been ſerved on her, was never produced; but although this written Evidence did exiſt in her Hands, her Witneſſes ſpoke from Memory of the Quantity and Value of the Goods that were divided, and the Amount of Damages was eſtimated by this Evidence.

Zekereah is the firſt Witneſs who ſpoke to the Goods. He enumerated a Variety of Silks, Shawls, Muſlin, Cotton, and other Kinds of Cloth in Bales, Wearing Apparel, Boxes of Pearls and Jewels ſet in Gold. He ſays, there were Two, Three, or Four Pearl Necklaces, Houſehold and Table Furniture, Three or Four Looking Glaſſes, Luſtres, one that had coſt 500 Rupees to repair it, and ſo elegant, that Shawbaz Beg ſaid he would ſend them in a Preſent to the King of England; that there were Papers, particularly one Sircar's Bill of Exchange, in Favor of the Gomaſtah of Caſhmeery Mul, to remit the Money of Shawbaz Beg Cawn, but that he did not read the Bill of Exchange; that there was a Purſe of 1,000 Gold Mohurs, Purſes containing 13, 14, or 15,000 Rupees. That there was a heavy Box, of which the Key was loſt, which appeared to contain Money. There was an Elephant and Three Horſes, but that he is not acquainted with the Value of the Things.

Dep. N° 6. The next Witneſs, Meer Cawn, ſays, He was not in the Houſe when the Effects were taken; that Bales were in the Houſe; that he cannot tell the Particulars, but can tell what they conſiſted of, whilſt he uſed to frequent the Houſe in the Life-time of Shawbaz Beg Cawn. He ſays there was 14,000 Rupees; as to Bills, he ſays, I know there were Two Bills of Exchange, One of which I ſaw for 20,000 Rupees to Davy Doſs, Caſhmery Mull's Gomaſtah; Davy Doſs drew a Bill of Exchange in favour of Shawbaz on Juwulla Naut, payable at Jumboo, I brought myſelf the Money; they were Sonaut Rupees; that he ſaw this Bill Three Months before Shawbaz Beg's Death, and not afterwards; that he delivered that Bill into the Hands of the Plaintiff, who put it into the Cheſt, on the Payment of the Money.—It is to be obſerved, that according to the Cuſtom of this Country, Bills of Exchange are drawn after Sight; it does not appear probable that it would be kept by Shawbaz Beg for Three Months in his Cheſt. The Witneſs then proceeds to enumerate Bales of Cloth, and a variety of valuable Articles, mentioned by Zekereah; amongſt other Things he ſays there were 1200 Rupees of Shawls, Part of the Wearing Apparel of Shawbaz Beg and the Plaintiff; that there were Jewels, to the Value of 40 *or* 50,000 *Rupees*; that there was a Glaſs Branch Candleſtick worth 100, and Two ſmall ones worth 250 Rupees. It is probable that theſe are the Luſtres that Zekereah deſcribes as being worthy to be preſented to the King of England.

Dep. N° 7. Anunderam alſo ſpeaks to the Goods. He ſays there were altogether 75 Bales, and Seven Bales of Shawls, about 160 Carpets; and Munna, a Slave Girl, ſays there was 32,000 Rupees in a Box.

The Quantity of Effects divided according to the looſe and conjectural Evidence of the Plaintiff's Witneſſes, is vaſtly greater than that contained in the Inventory. They ſpeak to the Value of only few Articles, and in order to aſcertain the Value, Witneſſes, Inhabitants of Calcutta, were examined as to the Prices of the different Kinds of Goods mentioned; and it is a Rule, that the Plaintiff in treſpaſs, is entitled to the higheſt Price of every Article, unleſs the Defendant can prove that it is of ſmaller Value. It appears, therefore that the Amount of Effects, partly from the Exaggeration of Witneſſes, and partly from the Application of this Rule, is much inflamed, they were eſtimated in Damages at about 2,400,000 Rupees. According to the Inventory, and the Opinion of Haujee Hatim, the Perſon who valued them, the Value of the Effects divided, including 28,000 Rupees in Money, and a Promiſſory Note for 17,000 Rupees, amounts only to 87,906 Rupees. This is excluſive of the Elephant and Three Horſes, the Value of which could not exceed 5,000 Rupees. Beſides this, it is to be obſerved that the Jewels, Cloths, and Women's Apparel, which appeared to belong to Nadara Begum, were not divided, but were given to Zekereah on behalf of the Begum; But theſe, as well as the Share ſet apart for her, were not taken away, in order, no Doubt, that it might not be ſaid that ſhe had acquieſced in the Diviſion; and they are now, I underſtand, in Shawbaz Beg's Houſe at Patna. Upon this Subject I beg leave to refer to the Tranſlation of the Inventory, which was tendered, but not admitted in Evidence, as the Authentications of the Chief and Council and Officers of Patna were not deemed worthy of Faith, and it was impoſſible to ſupport it by the Teſtimony of the Perſon who wrote it, and by that Sort of ſtrict Evidence, which a Court of Law requires, or to get ready Tranſlations of the voluminous ſoul Memorandums, which the Perſons who divided and appraiſed the Goods had taken at the Time, and without which being produced, they were not allowed to ſpeak, either to the Kinds, Quantities, or Value of the Goods, according to the Rule of Evidence above alluded to.

The Tranſlation of the Inventory, and the Eſtimate of the Goods made by Haujee Hatim and Sevuckram, who are now in Calcutta, accompanies this Addreſs.

Oppreſſions

PATNA APPENDIX, N° 18.

Oppreſſions at the Durgah.

From the Evidence of what paſſed at the Durgah, it does not appear that the Defendants ought to be conſidered as accountable for the Injuries which the Begum alledges ſhe ſuffered at Dep. N° 8. that Place. Munna indeed ſays, “ the Reaſon the Plaintiff went to the Monument was, that the Cauzee Sahdee obliged her to quit the Houſe, which ſhe did, and went to the Durgah.” She then proceeds to relate what paſſed there, and that Guards were placed ſo as to prevent her from receiving Suſtenance; but there is no Reaſon to believe that theſe Guards were placed by the Defendants; on the contrary, the Proceedings of the Exh. K. Council at Patna, of the 30th January 1777, in which, in conſequence of a Complaint of Behader Beg, the Council reſolve that ſhe be conſtrained to return to the Houſe, and deliver up the Sunnuds and other Papers of the Eſtate. It appears alſo in Conſultation of 30th April 1777, that the Cauzee having been reprimanded by the Chief and Council for Delay, in putting Behader Beg in Poſſeſſion of the Proportion of the Effects of his Father; gives in an Anſwer, and ſays, “ We have repeatedly ſent People to the Widow, demanding that the Slaves may appear before us, but ſhe will not pay the leaſt Attention to it.” He adds, indeed, “ and *Hircarrahs are now placed Mohuſſel* over her.” But he does not ſay placed *by us*, which, when he was cenſured by the Council for Remiſſneſs, he would in all likelihood have done, in order to ſhew the Pains he had taken to comply with their Deſire. He only ſays, we have repeatedly ſent People to demand; which ſurely cannot be deemed a Treſpaſs. Indeed, the Evidence of Shah Habbee Ullah, one of the Plaintiff’s Witneſſes, confirms this Opinion, and puts it beyond Doubt. He ſays, “ About Three Days after the Plaintiff came to the Durgah, Five Hircarrahs came to guard Dep. N° 10. the Plaintiff. I know they were the Council’s Hircarrahs, becauſe I aſked them.—That the Hircarrahs remained Three Months; when the Hircarrahs left the Durgah, a Havildar and Twelve Sepoys, belonging to the Company, came.” It appears clearly from this, that the Hircarrahs, who were placed Mohuſſel over the Plaintiff from the Time of her going to the Durgah till the Sepoys came, were the Council’s; and this accounts for the Cauzee, in his Anſwer above referred to, having avoided to take to himſelf the Merit of placing the Hircarrahs. There is Evidence indeed, that one of the Defendants, Behader Beg, went with an Hircarrah belonging to the Chief, and a Number of Women, who in a tumultuous Manner demanded the Slave Women and Papers; threatened, and intimidated the Begum, and then went away. The Injury which ſhe ſuſtained merely by the Threats of theſe People, cannot be eſtimated high.

The Deed of Gift and Ekrar, granted by the Shawbaz Beg to the Plaintiff.

Exh. J. It appears by the Report of the Cauzee and Muftees, entered on the Conſultation of the Council at Patna, of 20th January, 1777, and alſo by the Teſtimony of Zekereah, that the Begum aſſerted her Right to the Eſtate of Shawbaz Beg, on Three Deeds; a Marriage Settlement, a Deed of Gift, and an Ekrar Aum. This Point was admitted by Zekereah, in a Paper under his Seal; but as Zekereah’s Power of Attorney, on the Principles before ſtated, could not be eſtabliſhed to the Satisfaction of the Court, his Admiſſions as to this and other Points were not received in Evidence. There is alſo a ſimilar Admiſſion of Zekereah’s, that the Marriage Settlement was loſt, or had been torn. Upon the Deed of Gift and Ekrar Aum, therefore, which to be ſure, if authentic and valid, are ample enough to convey to her the Eſtate and Effects of her Huſband, the Begum aſſerted her Claim before Cauzee and Muftees. It is needleſs here to conſider, whether by the Enquiry of the Cauzee and Muftees at Patna, theſe Two Papers were ſufficiently proved to be authentic or forged, having formerly ſubmitted ſome Remarks on this Subject to the Honourable Board; and I ſhall therefore at preſent confine myſelf to explaining the Caſe and Evidence produced at the Trial by the oppoſite Parties, as to the Truth or Falſhood of theſe Deeds.

On the Part of the Plaintiff it was aſſerted, that Shawbaz Beg, about Six Weeks before his Death, executed Two Papers, one a *Hebenama* or Deed of Gift, dated the 10th of Exh. O. the Month of Ramzaun, declaring, that he had given and granted, and had delivered, Seiſin and Poſſeſſion, of all his Eſtate and Effects, excluſive of ſome Appropriations in favour of Behader Beg’s Father, to the Plaintiff his Wife. That he at the ſame Time executed another Paper, called an *Ekrar Aum*, or general Declaration or Acknowledgement, dated Exh. Q. the 11th of Ramzan, in which he declares, that whatever is *in his Poſſeſſion*, moveable or immoveable Property, and whatever eſtabliſhed Debts are due to him from others, all theſe are the Right and Property of Nadarah Begum, the Plaintiff, and are in his Hands only in uſufruc; and in the ſame Manner that his Name in Bills of Sale and Bond is only as in Truſt, being her Property. This Deed concludes with a Clauſe, that Nadarah Begum in reſpect to him, had ratified and confirmed it. But no mention is made of the Gifts or Appropriations contained in the Hebenamah; nor does it appear to have any Reference to or Connexion with that Deed. Theſe Papers were produced in Evidence in the Supreme Court. The Hebenamah is authenticated by the Seal of Shawbaz Beg Cawn, and atteſted with the Seals of Zekereah, Ghyrut Beg, Enayet Ullah Beg, and Mahomed Mazim, and the Mark of Mahomed Aweiz as Witneſſes. The Ekrar Aum is executed and atteſted in the ſame Manner, only that the Seal of Enayet Ullah Beg is not affixed to it. The Plaintiff endeavoured to prove that the abovementioned Witneſſes atteſted theſe Deeds in the Preſence and at the Deſire of Shawbaz Beg, and that they remained in the Hands of the Plaintiff; but it was not aſſerted, nor any Proof of it attempted to be given, that Seiſin and Poſſeſſion of the Eſtate had ever been actually delivered by Shawbaz Beg Cawn to the Plaintiff. It appears, that beſides theſe Deeds, there was in the Hands of Zekereah, *after Shawbaz Beg's Death*, another Hebenamah, either an Original, or a Copy of the above, atteſted with the Seal of Sihed Ahmed Cawn. To account for this Paper in the Way moſt favourable for the Plaintiff, it was ſaid that Zekereah, being deſirous of acquainting his Friends of Cabool of the Grant which Shawbaz Beg had made to the Plaintiff, did, after Shawbaz Beg's Death, make a Copy of the Deed of Gift from a foul Draft, which he found with Niaz Allee, Shawbaz Beg's Moonſhee; and having atteſted it with his own Seal, and that of Ghyrut Beg and Enayet Ullah Beg, he got Sied Ahmed Cawn alſo to affix his Seal to it, but *only as a Copy*, and ſent it to Cabool; and that this Paper had not the Seal of Shawbaz Beg to it.

The Circumſtances of theſe Deeds were ſtated on the Part of the Defendants in a very different Light. They ſay, " that ſome Days after the Death of Shawbaz Beg, Zekereah made a Draft of a Hebenamah from Shawbaz to the Plaintiff, dated the 10th of Rainzaun, and got Niaz Ally to copy it out fair; and having affixed to it Shawbaz Beg's Seal, which was in the Poſſeſſion of the Plaintiff, as well as his own, and having got Ghyrut Beg and Enayet Ullah Beg to add theirs as Witneſſes to this forged Paper, carried it to Syed Ahmud Cawn, and other Inhabitants of Patna, and ſolicited them to atteſt it, ſwearing by the Khoran that it was a true Deed of Gift, and that he had been preſent when Shawbaz Beg executed it; that ſome Perſons refuſed to atteſt it, but Syed Ahmud Cawn, and One or Two more, were prevailed on to affix their Seals, cautiouſly writing at the ſame Time, a Memorandum in Perſian, that they atteſted it on the Faith of Witneſſes.—That Zekereah, ſenſible that this Deed, with theſe Memorandums, would carry Suſpicion with it whenever produced, ſuppreſſed it, and employed Niaz Allee to make another Copy, to which he affixed the Seal of Shawbaz Beg; and having authenticated it with his own Seal, and that of others, ſet it up as the original Deed of Shawbaz Beg.

At the Trial, the Plaintiff in ſupporting the Treſpaſs, did not enter upon the Proof of theſe Papers as the Grounds of her Right, although they were ſet forth by her Counſel in opening the Caſe, but confined herſelf to the Title which Poſſeſſion gave her by the Law of England. The Defendants had therefore to give their Proofs in ſupport of the Forgery, *before* the Plaintiff produced her Witneſſes as to the Authenticity of the Deeds; and as the Trial laſted ſeveral Days, and the Witneſſes on either Side were not examined apart, this Circumſtance, ſuppoſing the Papers
Dep. N° 4. forged, gave the Plaintiff a great Advantage. Zekereah however, in giving his Evidence for the Plaintiff, at the Opening of the Trial entered on his Croſs-examination upon the Subject of theſe Papers; but as he was afterwards, on the laſt Day of the Trial, examined as to this Point on the Part of the Plaintiff at the Time ſhe produced her other Witneſſes to prove the Authenticity of the Papers, I think it neceſſary, in order to bring the Evidence given by the different Witneſſes on this Subject into one Point of View, firſt to ſtate the Proofs which the Defendants brought to eſtabliſh the Forgery.

Dep. N° 40. Their Firſt Witneſs is Syed Niaz Ally, the Perſon who wrote the Hebenamah. He ſays, he was in the Employment of Shawbaz Beg for Seven Years; was with him at the Time of his Death, and continued for ſome Time afterwards in the Service of the Plaintiff, who ſent him Word to obey the Orders of Zekereah; that on the 7th Day after Shawbaz Beg's Death, Zekereah ſent for him, gave him a foul Draft of a Paper, together with a Sheet of Paper ſpotted with Gold, and telling him that it exiſted in the Life-time of Shawbaz Beg, directed him to copy it; that it contained the Form of an Hebenamah; that after ſome Heſitation, he copied it fair on the Gold ſpotted Paper, and delivered it to him, together with the Draft which had no Seals to it. That Two Days after this, Zekereah again called him, and giving him the ſame Draft, deſired him to make another Copy on Gold ſpotted Paper; that on looking at it, he obſerved, that one Line had been ſcratched out, and ſomething written to Right and Left; and remarked this to Zekereah, who told him he had no Buſineſs with that, and to make haſte and copy it; and that he accordingly made a Copy with the Alteration. Being ſhewn the Hebenamah produced in Court, he declared it to be written by him, and to be the One he copied the Second Time. He then proceeds to mention his having ſeen it, and having been examined to it before the Cauzee, after it was produced by Zekereah in ſupport of the Plaintiff's Claim. His Evidence, as to what paſſed at that Time, although in itſelf of little Conſequence, yet becomes important inſomuch as it contains ſome Variations, which have thrown a Doubt on the Veracity of this Witneſs; but as this Part of his Teſtimony does not immediately affect the Truth or Falſehood of the Deeds, I forbear to ſtate it, as well as ſome other ſimilar Points in this Place.—Being examined as to the Atteſtation of Haujee Mahmud Awuz, the laſt Witneſs to the Deeds, he ſays, That Awuz came to the Houſe of Shawbaz Beg about 16 Days after his Death, and ſat down in Company with Zekereah, Ghyrut Beg, and himſelf; that Zekereah at length ſaid to Awuz, Shawbaz Beg in his Life-time made an Hebenamah and Ekrauram, and aſked him to witneſs them; that Awuz at firſt excuſed himſelf, but at length was prevailed upon to atteſt him by writing "*Ullah*" on each: That he, obſerving this Paper to be the ſame he had before copied, was alarmed, and mentioned it to Zekereah, who told him that a Copieſt was not reſponſible.

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Dep. N° 42. The next Witneſs called on the Part of the Defendants, is Cojah Enayet Ullah. He ſays, That about 7 or 8 Days after the Death of Shawbaz Beg, Zekereah ſent for him to Syed Ahmud Cawn's Houſe; that he went, and found Syed Ahmud Cawn and Zekereah ſitting there; that Zekereah took out an Hebenamah, delivered it to Syed Ahmud, telling him it was made by Shawbaz Beg Cawn in his Life-time, in the Name of Nadara Begum, and aſked Syed Ahmud Cawn and him to witneſs it; that Syed Ahmud read it aloud, and read alſo the Seals; that he recollects thoſe of *Shawbaz Beg*, Zekereah, and Ghyrut Beg; that there was One or Two more; that Zekereah declared it had been made by Shawbaz in his Preſence; that he, the Witneſs, excuſed himſelf, and did not atteſt it; that Zekereah then deſired him, as he was acquainted with the Cauzee and Muftees, to get them to affix their Seals upon the Paper, and he would give them Four thouſand Rupees; that he did mention this to Cauzee Sahdee and to Muckdoom, but they refuſed, and ſaid it could not be done.

Dep. N° 43. Syed Ahmud Cawn confirms the Evidence of the laſt-mentioned Witneſs; and ſays, That the Seal of Anyattullah Beg was alſo to the Hebenamah; that he refuſed to witneſs it the *Firſt Time*; that Zekereah came twice to his Houſe; that the Third Time, when he came, he ſwore by the Khoran that it was a true Paper, that it was made in his Preſence, and that his Seal was affixed to it; upon which this Witneſs was induced to affix his Seal, at the ſame Time writing the Words, importing that it was on the Teſtimony of Witneſſes. He ſays, to the beſt of his Recollection, this happened about 9 or 10 Days after the Death of Shawbaz Beg; that Zekereah declared the Paper to be *an Original*, and that it had all the Appearance of one.

Dep. N° 44. Meer Cullib Ally ſays, he uſed to frequent Shawbaz Beg's Houſe after his Death; that one Day Zekereah aſked him to put his Seal to the Paper he had got witneſſed by Syed Ahmud Cawn and others, but that he excuſed himſelf; that he then went to Iſhmael Beg's, where Zekereah came; that Zekereah took out a Paper, which was ſpotted, and gave it Iſhmael, who read it out, ſo that this Witneſs heard it; that the Seal of *Shawbaz Beg* was to it, which Iſhmael Beg aſked the Witneſs if he knew; that there were alſo the Seals of Ghyrut Beg, Zekereah, Anyattullah Beg, and Syed Ahmud Cawn, and other Perſons which he cannot recollect; that Iſhmael at firſt declined witneſſing it, becauſe he knew nothing of it from Shawbaz Beg; but Zekereah told him, that Syed Ahmud Cawn had the ſame Objection, but had conſented on his ſwearing it was true; upon which Iſhmael Beg deſired a Mutſudddy, Writer, or Servant, to put his Seal to it, with the ſame Words that Syed Ahmud had written; which he did, and brought the Paper, and Iſhmael gave it to Zekereah. He ſays, Zekereah ſaid it was an *Original*.—He ſays, that Iſhmael Beg died a few Days before the Time of his, the Witneſs, giving Evidence.

It may be proper to obſerve, that Iſhmael Beg came from Patna to give Evidence in this Cauſe. I ſaw him repeatedly, and took down what he knew of the Matter; which correſponds in all material Circumſtances with the laſt Witneſs. I formed it into a Depoſition, and he went with me, together with the other Witneſſes, to ſwear to it before one of the Judges, at the Time I applied for a Warrant againſt the Perſons concerned in the Forgery. But the Oaths neither of him nor the other were at that Time taken. He died after the Trial was begun. A few Days before his Death, he ſent me Word that he was ſo ill that he would not be able to attend, but wiſhed to give his Evidence in the Houſe where he was.

Dep. N° 45. The next Witneſs after Meer Cullub, produced at the Trial, was Abdul Kader. He ſays, that Zekereah came to his Houſe, and delivered to him a Hebanamah, telling him that "Shawbaz Beg made it, and gave to the Plaintiff, his Wife;" that on looking at it, he ſaw the Seal *of Shawbaz Beg*, and Sied Ahmud Cawn; that there were other Seals; that he aſked Zekereah, which Syed Ahmed Cawn it was, as there are others of the ſame Name, and he told him; that Zekereah read it, and afterwards called for an Ink-ſtand, and wrote a Note to a Perſon at Patna, and deſired this Witneſs to deliver it, which he refuſed; that there were Two Seals in the Ink-ſtand, which Zekereah took up, and aſked to whom they belonged; the Witneſs pointed which had been his Father's Seal, and which was his own; that there was dry Ink remaining in the Seal; that Zekereah took it, wetted it with his Tongue, and fixed it upon the Hebanamah; that the Witneſs, upon this, aſked him why he did ſo without his Conſent, but he immediately got up and went away; that Zekereah returned to him about four or five Days afterwards, and ſhewed him a Paper, ſaying, this is the Paper you were ſo much diſpleaſed that I affixed your Seal to, and *then he tore it*; but the Witneſs cannot poſitively ſay that it was the ſame Paper to which his Seal had been affixed.

I ſhall now proceed to ſtate the Evidence, as to the Deeds, on the Part of the Plaintiff, and which, as I formerly obſerved, was all given by her Witneſſes at the Cloſe of the Trial, except what Zekereah ſaid concerning them on his firſt Examination. To place this Evidence in diſtinct Point of View, it is neceſſary, ſeparately, to ſtate the Account which Zekereah gave of the Copy that had Sied Ahmed Cawn's Seal, and the Evidence produced to prove that the Hebanamah and Ekrauam were actually atteſted in the Preſence of Shawbaz Beg.

Dep. Nº 4. Zekereah, in his Depoſition, ſays, the original Paper of Grant which Shawbaz Beg Cawn had written in his Life time, I choſe to take *a Copy of*, to ſend to the Relations of the Family at Cabool, that they might know the Plaintiff was put in Poſſeſſion of all; and this Copy I had the Seal of Sied Ahmed Cawn affixed to, and that of Enayettulla Beg, as well as my own. *This Copy* I gave into the Hands of the Defendant Cauzee Sahdee; *after which* he and the Muſtees, the Defendants, concluded that this was the Original which Sied Ahmed Cawn had put his Seal to, and accuſed me of Forgery; upon which I was put in Priſon. On being re-examined for the Plaintiff, he ſays, " the original Grant, which I gave the Copy of to the Cauzee, was with the Plaintiff. The Names of the two Papers were Hebenamah and Ekrar Aum. The Paper *of which I ſpoke firſt*, is the Hebanamah, and the Ekrar Aum I had a Copy of taken by the Muſtee Guval; I gave a Copy of the Hebanamah to the Cauzee; I gave the Cauzee a Copy both.—What I ſaid with regard to the Copy which had the Seals of *Sied Ahmed Cawn*, Meer Ghyrut Beg, and Enayett Ullah Beg, and my own, was *miſtakenly taken down*; I ſent *that* Copy *to Cabool*; it was *another* Copy of the Hebenamah that I gave to the *Cauzee*, which I took myſelf from *the Original*. That which I ſent to Cabool, was from a Copy in the Hands of Niaz Ally, the Moonſhee of Shawbaz Beg Cawn. That Copy which I ſent to Cabool, was from a foul Draft of the Hebenamah; which foul Draft I found in the *Hands* of Niaz Allee, the Moonſhee of Shawbaz Beg Cawn, Five or Six Days after his Deceaſe, to which I had the Seals affixed, and ſent to Cabool, to *ſatisfy my Relations there*; but the Copy which I gave the Cauzee, I took from the Original, after the Diſpute began. There were no Seals to the Copy which I gave the Cauzee.—I deſire to be heard on this Subject, as I have been falſely accuſed. I deſire to repreſent it; and if it does affect my Life, let it: I wiſh to have that which I am about to ſay, underſtood; and if it affects my Life, be it ſo; but if I am cleared by it, then let thoſe who falſely impriſoned me be puniſhed. After the Death of Shawbaz Beg Cawn, knowing that he had made over all his Effects to the Plaintiff, I *procured*, from Sied Niaz Allee, the foul Draft of the Hebenamah, which foul Draft had exiſted *in the Life-time* of Shawbaz Beg Cawn; and *took* a Copy of it, and had the Seals of Sied Ahmed Cawn, Mirza Gyrut Beg, and Mirza Enayet Ullah Beg, as well as my own, affixed to it. This I encloſed in a Letter of my own, and delivered to a Mogul, a Native of Bokara, who was my Acquaintance; and gave him ſtrict Orders to carry it and deliver it to *my Couſin*, at Cabool. Afterwards, when this Diſpute aroſe between the Plaintiff and Defendants, the Plaintiff *delivered to me* the original Hebenamah and Ekrar Aum, and told me to take Copies of them; *and if any one raiſed Diſputes, to ſhew theſe Copies to the Cauzee.* I therefore took a Copy of the Ekrar Aum, and deſired the *Muſtee Guval* to affix his Seal thereto; and I took a Copy of the Hebenamah myſelf, not finding an Opportunity of getting the ſaid Muſtee's Seal affixed thereto. Afterwards, when they were taking the Inventory, the Cauzee Sahdee one Day came to the Houſe of the Plaintiff, and deſired me to aſk her, on what Grounds ſhe laid Claim to her Huſband's Effects; I did ſo, and returned with the Anſwer, that ſhe had a Maharnama (Marriage Settlement) a Hebenamah, and an Ekrar Aum, on which ſhe founded her Claim. The Cauzee Sahdee, the Defendant, aſked *to ſee them*; and I delivered to him the *ſaid Copies* of the Hebenamah and Ekrar Aum. The Cauzee Sahdee came another Day, and aſked again for the Originals; and *on their being refuſed*, ſaid they were Forgeries; upon which, Zulficar Ally, the Vakeel of Behader Beg, the Defendant, cried out, that it was a Forgery, that it was written after the Death of Shawbaz Beg, and that the Seals of *Sied Ahmed Cawn* was affixed to it. This I underſtood was reported to the Council. I was called there, and impriſoned; from the Priſon I was brought, with the other Four Witneſſes that had been impriſoned with me, and I was brought alone into the Council Room, where were ſitting Mr. Droz, Mr. Law, Mr. Young, and Mr. Bird. The Defendants alſo were there. Mr. Law ſaid, your Hebanamah and Ekrar Aum are Forgeries. I aſked, Who ſaid ſo? Mr. Law ſaid, The Defendant, Cauzee Sahdee. I aſked, How they would make that appear? Mr. Law replied, The Cauzee Sahdee ſays, there are affixed to it the Seals of Sied Ahmed Cawn and Iſhmael Beg; and I find that they are written after the Death of Shawbaz Beg Cawn. I anſwered, If the Seals of theſe Two Perſons are affixed, you may blow me from a Gun. Immediately Mr. Law ſaid, Very well; if thoſe Seals are not affixed, bring and let me ſee them, then your Words will be eſtabliſhed; but if they are affixed, you ſhall be blown from a Gun. I ſaid, *Give me your Word* to this Purpoſe, and *I will produce them*. Mr. Law ſaid, I give you my Word, if theſe Papers have not theſe Seals to them, they ſhall be accounted Originals. I then took the Originals from a Vakeel that was by, and gave them to Mr. Law. Mr. Law looked at the Papers, and turning to the Defendant Cauzee, aſked what this meant? Upon which the Cauzee turned to Zulficar Allee, and ſaid, How, Zulficar Allee! how is this? I attempted to take back the Originals, but Mr. Law prevented me, ſaying, that he would look at them; and bid me go for the preſent, and be in Eaſe of Mind. I came out, and told the Peons their Maſter had ſet me at Liberty; but the Peons refuſed to do ſo, without an Order, and carried me back to Priſon, where I remained Four Months.

This is the Account which Zekereah gave of this Matter, at the opening of the Trial. His Depoſition, taken on the laſt Day of the Trial, contains the following Circumſtances: " The firſt Time I ſaw this Paper (the Hebanamah) after the Death of Shawbaz Beg Cawn, was when this Affair of Behader Beg's Claim happened; and about Two or Four Days after, the Defendants, Cauzee Sahdee and Muſtees, came to the Houſe, when the Cauzee

Dep. Nº 51.

PATNA APPENDIX, Nº 18.

Sahdee enquired what were the Foundation of the Plaintiff's Claim. I went to aſk this Queſtion of the Plaintiff; in Anſwer, the Plaintiff ſaid, I have a Hebanamah, an Ekrar Aum, and a Maharnama. But the Plaintiff, on being *aſked* to produce them, *refuſed* then to give them up; but after *much diſputing*, in the Courſe of Four or Five Days, *I deſired* her to give me the Papers, and ſhe gave me the Hebanamah and Ekrar Aum. That was the Firſt Time I ſaw the Hebanamah after the Death of Shawbaz Beg Cawn."—He afterwards, in Contradiction of the Teſtimony given by Niaz Allee, ſays, "On the 6th Day after the Death of Shawbaz Beg Cawn, in the Horſe Stable where Niaz Allee uſed to remain, *I found* his Writing Apparatus tied up in a Bundle. I opened it, and found therein a Paper, which *I found* to be a foul Draft of the Hebanamah. I brought this Draft into the Dewan Khanna, where I uſed always to ſit; and called Niaz Allee, who was alſo in the Dewankhanna, and in the Midſt of which ſtands at preſent the Monument of Shawbaz Beg Cawn. He finiſhed the Copy, and brought it to me; but the Draft remained again with him. I then took that Copy, and affixed thereto my own Seal; and at Three o'Clock in the Afternoon of the ſame Day, I told Ghyrut Beg that I intended to ſend this Copy to Cabool, and deſired him to affix his Seal to it, which he did, after I had read to him the Contents; he not being able to read himſelf. Afterwards, on the Second or Third Day after this, I went to Sied Ahmed Cawn. The Mogul went away, and when we were alone (the Mogul was a Hadjee, a fat Man, and had a white Beard; I don't know his Name) I deſired Sied Ahmed Cawn to affix his Seal to that Paper, telling him, that it was *a Copy* of a Hebanamah, which Shawbaz Beg Cawn had made in his Life-time; and that I was about to ſend it to my *Brother* at Cabool, with a Letter, in order that the Effects of the deceaſed Cawn at Cabool, which now belonged to the Plaintiff, might not be diſperſed. He ſaid, Very well; and put his Seal to it, and gave it to me. The *next Day*, when I was in the Dewankhanna, Enayettullah Beg came in to viſit us, and got him to affix his Seal to it. One or Two Days after that, I was going to the Council, and in my Way I met Iſhmael Beg. I wiſhed to have his Seal alſo affixed to it. I told him alſo the Circumſtances of the Paper, and told him I wiſhed to have his Seal affixed to it. I had it not with me, and he deſired me to ſend it. I do not remember whether I did ſo or no; but at all Events, it was ſent away to Cabool without his Seal to it."—On his Croſs-examination, he ſays, "As to my going into the Stable, the whole Houſe was my Uncle's Houſe, and I had a Right to go where I pleaſed; and as to my finding the Writing Apparatus of Niaz Allee, it was in my Mind to ſend a Copy of the Hebanamah, which I knew Shabaz Beg Cawn had executed *in his Life-time*, to Cabool; and as Niaz Allee was a Servant of the Deceaſed, and generally wrote his Letters in the Abſence of his Dewan, *I concluded* that the Draft of it would be with him. What I did then, I concealed from the Plaintiff. I had Acceſs to her on Buſineſs. If I had not found this Draft, I ſhould not have done this. Had I applied to the Plaintiff for a Copy of the Original, I was apprehenſive of her becoming ſuſpicious of my having ſome Deſigns on the Eſtate. It never occurred to me, that there were any other Papers but the Hebanamah and Ekrar Aum.—I did not put the Seal of Shabaz Beg Cawn to any Copy; it would have been like an Aſs, or a Fool, to have done ſo. From my Birth to this Day, I was never in Poſſeſſion of the Seal of Shabaz Beg Cawn—One of the Two Papers (Hebanamah and Ekrar Aum) was enough for my Purpoſe, to ſend to Cabool. Had I been a Forgerer, I would have written both."

The above is a literal Extract of the Depoſitions of Zekereah as to the Hebenamah, which had Sied Ahmed Cawn's Seal; and I beg leave to make ſome Remarks on it. I am ſenſible how liable the Evidence of a Witneſs is to be miſtakenly taken down; the Queſtion to him being turned from Engliſh into Perſian or Moors, and put without being written down, and then the Anſwer explained in Engliſh, and taken down by the Clerk, who is thus obliged to connect it with the Queſtion, in order to make Senſe of it. Thus the leaſt Error in the Witneſs's Conception or in the Interpretation of a Queſtion, to which a ſimple negative or affirmative Anſwer is given, or a Miſapplication of the Relatives *this*, *that*, *he*, &c. or a Miſtake in the Tenſe of a Verb, will make a very material Difference in the Evidence of a Witneſs, ſo that his Depoſition may contain Things which he never intended to ſay. The Depoſition being thus taken down, is indeed ſigned by the Witneſs; but this Authentication can hardly be deemed any Precaution againſt Error, as the Evidence is written in Engliſh, and the Witneſs ſigns it without it's being explained to him. Zekereah indeed furniſhed an Exception to this common Practice, as he, and of all the Witneſſes in the Cauſe, *he alone* aſked Leave to have his Depoſition read to him, and in conſequence declared that it had been *miſtakenly* taken down, diſclaimed Part of his Evidence, and gave the Explanation contained in the foregoing Extract. It is far from impoſſible, therefore, that the flat Contradiction in Zekereah's Evidence, where he ſays that he gave the Hebenamah that had Sied Ahmed Cawn's Seal to the Cauzee, and afterwards ſays, that he ſent that Hebenamah to Cabool, may have been miſtakenly taken down, although it muſt be remarked that he aſſigns *this* as the Reaſon of the Suſpicion in the Cauzee and Muftees of the Forgery. In ſpeaking of the Hebenamah that had Sied Ahmed's Seal, he ſays, "This Copy I gave to the Cauzee, *after which* he and the Muftees concluded that *this* was the Original, which Sied Ahmed Cawn had put his Seal to, and accuſed me of Forgery." He afterwards gives another Reaſon for their ſuſpecting the Forgery. He ſays, "He gave the Cauzee Copies of the Hebenamah and Ekrar Aum, taken from the Originals; that the Cauzee inſiſted on the Originals being produced, and *on their being refuſed*, ſaid, They were Forgeries; and upon this the Vakeel of Behader Beg ſaid, It was a Forgery, that it was written after Shawbaz Beg's Death, and that the Seal of Sied Ahmed Cawn was affixed to it; which being reported to the Council, Mr. Law, one of the

Members, inſiſted with Zekereah, that the Hebenamah under which the Begum claimed, had the Seals of Sied Ahmed and Iſhmael Beg; and when Zekereah produced the Original, and Mr. Law found Sied Ahmed Cawn's Seal was not to it, he was aſtoniſhed, and the Cauzee and Muſtees and Behader Beg's Vakeel were confounded. There is Reaſon indeed (independent of the Declaration of Mr. Law, who aſſures me that this Converſation never happened) to doubt the Probability of this Circumſtance. For if Zekereah gave the Cauzee and Muſtees a Copy of the Hebenamah that had *not* Sied Ahmed's Seal, why ſhould they aſſert the Forgey upon the Point of its having that Seal? when by ſhewing the Original they could be ſo eaſily confuted. Suppoſing, however, the Contradiction in Zekereah's Depoſition, as to the Copy delivered to the Cauzee to be a Miſtake; ſtill there are many Circumſtances in his Account of this Matter which appears ſuſpicious, or ſeem difficut to be reconciled. Nadara Begum is in Poſſeſſion of Two Deeds, by which, and which only, ſhe can ſatisfy the Cauzee and Muſtees, her Huſband's Relations either at Patna or Cabool, and the whole World, that ſhe has a Right to the Eſtate. By One of theſe Deeds, dated the 10th Ramzaun, Shawbaz Beg declares, that he *had* given to Nadara Begum, and had delivered *Seiſin* and *Poſſeſſion* to her of the whole of his Eſtate, reſerving 20,000 Rupees to his Brother Allum Beg, 500 Rupees a Year to Behader Beg, and a ſuitable Maintenance to Zekereah. By the other, dated the following Day, he declares that every Thing that *is in his Poſſeſſion*, is the Property of Nadara Begum; but makes no Mention of the Appropriations of 20,000 and 500 Rupees. Theſe Deeds, as appears on the Face of them, extend not only to his Property in the Neighbourhood of Patna, but alſo to that in the diſtant Province of Cabool. Zekereah is living in the Houſe with the Widow, was preſent at the Execution of theſe Deeds, and his Seal is to them. He wants "to ſatisfy his Relations at Cabool," that they are cut off from any Proſpect of Shawbaz Beg's Inheritance; and he wants to prevent "the Effects of the Deceaſed at Cabool, which now belonged to the Plaintiff, from being diſperſed." But he does not, as was natural for him who declares himſelf verſed in the Muſſulman Law, adviſe the Widow to publiſh theſe Deeds, to prove them, and thereby eſtabliſh her Right, to get atteſted Copies of them under the Seal of the Cauzee, and other public Officers, to ſend ſuch Probate to Cabool, and appoint Perſons to manage her Affairs there, but he ſearches Niaz Allee's Ink-ſtand, and *finds* a Copy of the Hebenamah, makes Niaz Allee copy it, atteſts it with his own Seal and that of Ghyrut Beg, and then goes and ſolicits Sied Ahmed Cawn and Iſhmael Beg to put their Seals alſo to it as an Atteſtation of his being in Poſſeſſion of the *Original.* What Purpoſe could this Copy ſerve? If he wanted to give only Information to his "Brother" or "Uncle," a Copy under his own Seal would have been ſufficient; if he wanted to collect and ſecure the Property at Cabool, the Atteſtation of Individuals living a Thouſand Miles diſtant, and in a City where there are Cauzees and other public Officers, could ſurely be of little Effect. But he is afraid to mention this to the Widow, although it is done principally for her Intereſt; he is afraid, leſt ſhe ſhould ſuſpect he had Deſigns upon the Eſtate, and therefore he acts with ſo much Secreſy. But it is not only on this Occaſion that the original Deeds are kept concealed: When the Cauzees and Muſtees are examining into the Begum's Title, ſhe tells them through Zekereah, that her Right depends on a Hebenamah and Ekrar Aum; ſhe either "*gives* the original Deeds to Zekereah, and deſires him to take Copies, and ſhew them to the Cauzee, in caſe any Perſon ſhould raiſe Diſputes;" or, after the Cauzee had required them to be produced, Zekereah, "*after diſputing* ſeveral Days with her, obtains them," makes Copies of them, and gets a Muſtee named Guval to atteſt the Copy of the Ekrar Aum, but has not an Opportunity of getting the Hebenamah authenticated, and delivers theſe Copies to the Cauzee; but he, as well as the Plaintiff, peremptorily refuſes to produce the Originals, although they are in his Pocket. Surely this extraordinary Conduct, if Zekereah's Evidence is to be believed, is ſufficient to create Suſpicions in the Mind of any Perſon, but much more of thoſe who are acquainted with the Manners of the People of this Country, even if his Accounts were not poſitively contradicted by Sied Ahmed himſelf, and other Three Witneſſes.

Dep. Nº 51.

The Evidence produced on the Part of the Plaintiff, to prove that the Hebenamah and Ekrar Aum were actually executed and atteſted in the Preſence of Shawbaz Beg, remains to be ſtated. Zekereah alſo is the principal Witneſs to this Point; his Teſtimony is contained in his Depoſition taken the laſt Day of the Trial. He ſays, "I did affix my Seal at the Requeſt of Shawbaz Beg Cawn to a Hebenamah before his Death. On the 13th, 14th, 15th of Ramzaun, in the Hegera Year 1190, Shawbaz Beg Cawn gave into my Hands the Hebenamah, told me he had given all to his Wife, and deſired me to affix my Seal to it. There was his own Seal to it, and that of no other Perſon, when he deſired me to put mine. It was in his own Houſe. There were no other Perſons preſent except poſſibly his Servants. By that Expreſſion I mean the Houſe I always lived in with him. I know the Paper (Exhibit N) it is the ſame Hebenamah of which I before ſpoke. This was a Month and Three days before the Death of Shawbaz Beg Khan, for he died on the 28th Shawul, and this was on the 13th, 14th, 15th of Ramzaun; Fifteen Days remained of the former Month, and Twenty-eight of the latter; it will be a Month and Twenty eight Days. Shawbaz Beg Khan was at this Time in good Health, and his Underſtanding was better than mine. After I had put my Seal to this Paper, Shawbaz Beg Khan folded it up, and put it in his Pocket; I ſaid, Khan Saheb, why don't you get other People to put their Seals to it? Why don't you get Behader Beg to put his Seal to it?—My Meaning in aſking this was, that he ſhould be called to put his Seal together with me. Shawbaz Beg Khan anſwered, Behader Beg has committed Murder: It is not neceſſary he ſhould put his Seal to it; do you put your's. I aſked Shawbaz Beg

Cawn, Why he asked me to put my Seal to it? He anſwered, You are my own Siſter's Son, and you are a Man of *Learning*; it is very good that your Seal ſhould be on this Paper. I never ſaw this Paper again in Shaubaz Beg Cawn's Life-time."—Being croſs-examined, Zekereah ſays, "I know Haujee Awauz. I never deſired Haujee Awauz to write the Word Ullah to any Paper by Way of Teſtimony. There is written round the Word Ullah, in the Hebenamah (Exhibit N) now ſhewn me, Perſian Words, ſignifying the Sign of the Hand Writing of Kazy Mahomet Iwaz, "whatever is in the Text is true." *Theſe Words were not written upon it when I put my Seal to it.* I do not know the Hand Writing of Haujee Awaux."—On occaſion of aſking him if the Hand Writing in the Ekrar Aum was the ſame with that of the Hebenamah (though this does not appear in the Depoſition) he ſays, "There is great Similitude in Hand Writings. I did not ſee it wrote. I do not know whoſe Writing. I am of a certain Opinion, that Niaz Ally wrote this Paper" (Exhibit N).—In the Phouſdarry, before the Kazy, he acknowledged it to be his Hand Writing, and I know that he uſed to copy the Law Papers of Shawbaz Beg Cawn. "I did not ſee either of the Papers (Exhibits N and P) written.—Exhibit P—It is ſomething like the Hand Writing of Niauz, but I do not think it is his." —The concluding Part of Zekereah's Evidence is too extraordinary to be omitted. To underſtand it, it is neceſſary to refer to the Tranſlation of the Hebenamah and Ekrar Aum, where it will appear that there is written in the Hebenamah, under each of the Seals of Zekereah and Ghyrut Beg, Words in Perſian, ſignifying, "ſealed on the Acknowledgment of the Declarant;" under the Seal of Mazum Beg, the Words, "Witneſs to what is herein contained;" and under the word *Ullah*, which is the Mark of the Signature of Hajee Mahomed Awuz, "Whatever is in the Body is the Truth." It is the Practice for the Perſon who witneſſes a Paper, to write ſuch Words himſelf, in caſe he can write. Zekereah was queſtioned as to the Writing round the Seals, by the Chief Juſtice, and both the Queſtion and Anſwer as to this Point were taken down. The Examination is as follows: Dep. N° 51.

Queſt. Who wrote the Writing which is round the Seals?

Anſ. What is wrote about my own Seal, and that of Ghyrut Beg, in the Hebenamah (Exhibit N) I remember writing myſelf; but the other Three I do not remember writing. *I am ſure* that above the Seal of Mazum Beg *is not* mine; that around Ullah *is not* my Writing.

Queſt. You muſt know your Hand Writing; anſwer, is it your Hand Writing, Yes or No?

Anſ. *It is not.* It is not in my Memory that it is. I do not remember it. If it is my Hand Writing, it may be ſo.

Queſt. You muſt know your Hand Writing; you need not look at it ſo *frequently*?

Anſ. If it is it may be, I do not recollect it. If it may be, it may be, I do not recollect it. It is certainly my Hand Writing.

Queſt. Now you have ſwore it is your Hand Writing, and that it is not: which is true? One or the other of them muſt be true.

Anſ. *It is* my Hand Writing.

Queſt. You did not ſee Mahomed Iwaz write Ulla; therefore why did you write under it?

Anſ. I remember, that when Ghyrut Beg affixed his Seal, as he could not write, the Deceaſed, Shawbaz Beg Cawn, deſired me to write over it; and *having procured Iwauz to write in my Abſence, Ullah, he deſired me to write Ullah.*

Queſt. You have ſaid, I think, that you never ſaw the Hebenemah after your own Seal was put to it, and till after the Death of Shawbaz Beg Cawn; and that when you did put your Seal to it, the other Seals were not to it, nor the Signature Ullah: How came you now then to ſay, that after the Seal of Ghyrut Beg was put to it, and the Signature Ullah, that Shaubaz Beg Cawn deſired you to write upon the Hebenamah?

Anſ. It is true, that when he deſired me to put my Seal to it, there was no other Seal than his; but about the ſame Time, or a Day after, when the other Witneſſes witneſſed it, I was by, and he deſired me to Witneſs it. I was always preſent with Shawbaz Beg Khan.

Queſt. Were you by when Mahomed Iwaz wrote the Word Ullah?

Anſ. I was not preſent then. When Innayet Ullah Beg and Ghyrut Beg put their Seals to it, I was preſent.

Queſt. Why, if you did write under the Word Ullah, as you now ſay you did, why did not you immediately ſay that you did not write under it?

Anſ. I was in doubt about my own Hand Writing; and having ſworn, I was *cautious in acknowledging it.*

Queſt. What did you mean by ſaying that you never ſaw the Paper after you had put your Seal to it, till after the Death of Shawbaz Beg Khan, if Shawbaz Beg Khan did, in Fact, produce it to you to write upon it, at any Time after you had put your Seal to it?

Anſ. It is not a Contradiction. After all the Seals were put to it, after that Time I meant to ſay I never ſaw it till after the Death of Shawbaz Beg Khan.

Queſt. Is all the Writing over the Seals of your Hand Writing?
Anſ. The laſt *is not* my Hand Writing.

Queſt. Look to it, and be ſure.
Anſ. This is alſo my Hand Writing.

Queſt. Why did you ſay it was not your Hand Writing when it is?
Anſ. I did not remember writing it; but on ſeeing it is the ſame flow of the Pen, *I acknowledge it* to be my Hand Writing.

The Prevarications and flat Contradictions in this Part of Zekereah's Teſtimony are ſo ſtrong, that they hardly require to be pointed out. He firſt endeavours to avoid the Subject; he ſays, "He does remember writing round his own and Ghyrut Beg's Seal, but does not remember writing round the other Three: he is ſure the Writing around Nazum Beg's Seal, and *Ullah*, is not his." Being told, that he muſt know his own Hand Writing, and deſired to give a direct Anſwer, he at firſt poſitively denies that it is his; he then ſays, "it is not in his Memory that it is;" and then, "if it is his Hand Writing, it may be." Being threatened with Impriſonment, if he does not give a direct Anſwer, he repeatedly prevaricates, and evades the Queſtion;—"If it may be, it may be, he does not recollect it;" but at length ſays, "it certainly is his Hand Writing." Being told, he has ſworn to Two oppoſite Facts, and aſked which of them is true, he repeats, "that it is his Hand Writing." Being aſked, why he wrote under Mahomed Awuz's Mark, as he did not ſee him write *Ullah*, he now recollects all the Circumſtances, and that Shabaz Beg having got the Deeds atteſted by Awuz, deſired him to write under it. Being aſked, why he denied it at firſt, he ſays, "Having ſworn, I was cautious in acknowledging it."—Zekereah, whoſe whole Evidence had been given with a Boldneſs that might be deemed Preſumption, and who, in many Parts, delivered his Teſtimony like chit-chat Converſation, poſitively denies, and then cannot take upon him to ſpeak to his own Hand Writing, being under the Impreſſion of his Oath. At length, after having looked at the Hebenamah Fifty Times, at the Cloſe of his Evidence he is aſked, whether the Writing round *all* the Seals is not his? he ſays, That round the laſt is not my Hand Writing. Being again queſtioned, he ſays, this alſo is my Hand Writing. I did not remember it, but I ſee it is the ſame flow of the Pen.—It is impoſſible to account for Zekereah's Motive for denying his own Hand Writing, ſuppoſing the Deed a true one. Many Reaſons for this Backwardneſs occur, if it was forged. But it appears of no Conſequence what his Motives were; neither is it a Queſtion here, whether the Circumſtance on which Zekereah prevaricates and contradicts himſelf, is or is not Material to the *validity of theſe Deeds.* The Point to be conſidered is, whether theſe Contradictions and Prevarications, joined to thoſe formerly pointed out, are not ſufficient to invalidate *his Credibility* as a Witneſs; and if his Evidence be ſet aſide, the Truth of the Deeds, and the Plaintiff's Right, are ſhaken to the Foundation. The Contradiction, as to his having never ſeen the Hebenamah, after he had put his Seal to it, is flat; but he afterwards ſays, he *meant to ſay* he never ſaw it after the Seals were put to it; and as Miſtakes are ſo likely to happen in taking down the Evidence, this Contradiction, of itſelf, might be overlooked.

The next Witneſs called to eſtabliſh the Truth of the Deeds, was Ghyrut Beg.—
Dep. N° 52. He ſays, "I did know Shawbaz Beg Cawn—I did put my Seal to a Hebenamah and Ekrauram of Shawbaz Beg Cawn.—If the Hebenamah was ſhewn to me, I ſhould know it by my Seal. Firſt, there is the Seal of Shawbaz Beg Cawn, then that of Cojah Zekereah, and then mine.—This is my Seal to Exhibit N. (the Hebenamah produced) and I put it to it at the Requeſt of Shawbaz Beg Cawn—It was in the Month of Ramzam before his Death.—There were the Seals only of Shawbaz Beg Cawn and Zekereah, and no other Seal."—Being croſs-examined, he ſays, There were preſent a Merchant, whoſe Name I do not know, *the Conſummah* of Shawbaz Beg Cawn and Zekereah was reading a Book in the Dewan Khannah—he ſat in Sight of us—no other Perſon was preſent—Cojah Zekereah did not write any thing at that Time.—When I had put my Seal to it, Shawbaz Beg Cawn deſired me to write under my Seal; but as I could not write, I called Zekereah, and he wrote.—I did not ſee Zekereah put his Seal to it—both the Seals were affixed to it when I ſaw it, excepting to the Hebenamah and Ekraraum—I put my Seals to *no other* Paper, at the Deſire of Shawbaz Beg Cawn, or *Cojah Zekereah.*—After the Death of Shawbaz Beg Cawn, one Day about Three o'Clock, Cojah Zekereah brought a Paper to me, which he ſaid was a Copy of the Hebenamah he got from Neauz Ally, and *I put my Seal to it* according to *his* Deſire, and which he ſaid he wanted to ſend to Cabool:—Seven Months afterwards I ſaw the Original in the Phouſdarry at Patna.—The Copy was to be ſent to Cabool, in order to prevent the Effects being diſperſed; and I put my Seal to it on that Account—The Seal of Shawbaz Beg Cawn was not to the Copy."—There is a flat Contradiction alſo in this Depoſition, which I ſhall attribute only to the Inaccuracy or Inattention of the Witneſs.—The Teſtimony of Ghyrut Beg, as well as that of the remaining Witneſſes, being confined only to one ſimple Point, viz. *Shawbaz Beg* deſired them to Witneſs a Paper, was little expoſed either to Contradiction or Croſs-examination. Ghyrut Beg indeed mentions, that a Merchant, whoſe Name he did not know, and the Conſummah of Shawbaz Beg were preſent—The Conſummah was at Patna during the Trial.—He has ſince been interrogated

as to this Point, and he denies having been preſent.—In conſequence of his having been queſtioned, it appeared, that he was acquainted with other very material Circumſtances regarding the Hebenamah.—He has come down to Calcutta, and I have taken his Examination, as well as that of Two other Perſons on this Subject, which go encloſed, and which they all declare themſelves ready to ſwear to.

Dep. Nº 53. Ennayet Ullah, whoſe Seal appears on the Hebenamah, but not on the Ekraraum, ſwears, that he put his Seal to the Hebenamah immediately after that of Ghyrut Beg, about the 15th or 16th of Ramzam, in the Preſence and at the Deſire of Shawbaz Beg, who acknowledged it to be his Deed.—He ſays, Two Perſons whom he did not know, and Zekereah, were preſent; he accounts for not having ſealed the Ekraraum, from his having a falling Sickneſs on him at the Time, and that he fainted away with the Seal in his Hand, that he fell down immediately on having affixed his Seal to the Hebenamah; he adds, there is ſomething wrote over my Seal, and it was wrote at the ſame Time; having affixed my Seal to it, Shawbaz Beg Cawn deſired Cojah Zekereah to write over it what now appears, as my Hand Writing was not very good.—It ſeems extraordinary that he ſhould fall down in a Fit *immediately* on having affixed his Seal, that he ſhould recover ſo well as to hear Shawbaz deſire Zekereah to write over the Seal, only becauſe the Witneſs did not write a good Hand, and know that it was written at the ſame Time, and yet that he did not atteſt the Ekraraum.

Dep. Nº 54. Mazum Beg's Seal is to both the Papers.—He was formerly a Soldier, and for ſome time paſt a Merchant; and it appears that he cannot write his Name, as his Depoſition is atteſted with his *Mark*.—He ſays, he affixed his Seal to Two Papers at the Requeſt of Shawbaz Beg, on the 10th of Ramzam to the Hebenamah, and on the 11th to the Ekraraum. He afterwards (having miſunderſtood the Queſtion) ſays, that the 10th and 11th were the Dates of the Papers; that he affixed his Seal on the 15th of Ramzam. This Miſtake was natural, and ſo far from calling his Accuracy in queſtion, it is aſtoniſhing at the Diſtance of Two Years to find a low Man, who cannot read or write, recollecting with ſo much Preciſion the reſpective Dates of Papers written in Perſian, and the exact Date on which he affixed his Seal to them—He ſays Zekereah and Iſhmael Beg were preſent.—He was in no Danger of being contradicted by the latter, who he knew had died a few Days before he gave his Teſtimony.—He ſays, Shawbaz Beg deſired him to write, and he deſired Zekereah to write, who put the Words over his Seal.

Dep. Nº 55. Hajee Mahomed Awuz is the laſt Witneſs to the Deeds. He too was formerly a Soldier, and turned Merchant.—He ſays he wrote the Word "Ullah" on the Hebenamah in the Month of Ramzam, at the Deſire of Shawbaz Beg, who told him, that he had made an Ekraraum, giving every thing to his Wife; that he had done it with his own free Will, and deſired the Witneſs to teſtify it.—He ſays he went to Benares, and returned about 20 or 25 Days after Shawbaz Beg's Death.—But his Memory is not ſo good as that of his fellow Soldier, Mazum Beg.—"If I had not been a Military Man, ſays he, I might have remembered better."—He ſays he can't write any thing but the Word Ullah; that Two or Three Gurries after writing the Word Ullah, Shawbaz Beg deſired him to write the Explanation of its being his Evidence; but he told him he could only write Ullah; Two or Three Gurries afterwards Zekereah came, and he wrote it. *Iſhmael Beg* was preſent alſo when *this* Witneſs atteſted the Paper.

It does not appear at the Trial the Ekraraum (Exhibit P.) was ſhewn to either of theſe Witneſſes; therefore, ſtrictly, there is no Proof of it; although moſt of them, however, ſpeak of atteſting it at the ſame time with the Hebenamah.

Before I conclude the Head of the Evidence as to the Deeds, it may be proper to ſtate that Part of Niaz Allee's Teſtimony, before alluded to, which reſpects his having ſeen the Hebenamah, and Ekrar Aum, before the Cauzee; and which, from the Variations that it contains, has been conſidered as ſufficient to render his whole Evidence doubtful.—To obviate an apparent Contradiction, it is neceſſary to obſerve, that the Examination made by the Cauzee, was in the Houſe of Shawbaz Beg Cawn.

Dep. Nº 41. Niaz Allee's Evidence on this Subject, extracted from different Parts of his Depoſition, is as follows: "I ſaw this Paper with the Cauzee the firſt Time, with the Seals on. The firſt Time I ſaw it, was in the Houſe of Shawbaz Beg Cawn. The Cauzee ſent a Meſſage to the Begum, and ordered a Perſon to produce what Papers ſhe had. Mullah Zekereah *produced* this Paper. He ſaid, Here are two Papers, look at them, and peruſe them; and ſaid, that by virtue of theſe Papers the Begum claimed the Eſtate.—The Cauzee ſaid to Zekereah, You claim the Eſtate of Shawbaz Beg Cawn, produce me the Right by which you claim it. He produced two Papers; this is one of them. *I was ſent for*; the Cauzee aſked Zekereah, whoſe Writing it was, *upon which* I was ſent for. The Cauzee ſhewed me Two Papers, and aſked me which of them was my Writing. I ſhewed this Paper, and pointed out, that this was my Writing. The Cauzee ſwore me; and I ſwore that this was my Writing. Whatever was the Truth, I related to the Cauzee. I then gave the Cauzee the ſame Account I have now given to the Court. I ſaid before the Cauzee, that after the Death of Shawbaz Beg Cawn, Mullah Zekereah gave me a Draft of a Hebenamah, and deſired me to copy under the Vine; and he ſaid, that this was the

Draft which exiſted in the Time of Shawbaz Beg Cawn ; and he deſired me to copy it. I ſaid to the Cauzee, I did not know whether this Draft was before or after the Death of Shawbaz Beg Cawn. I made out the Draft according to his Deſire. I delivered the Copy I made from the Draft to Mullah Zekereah. All this was taken down by the Cauzee. I put my Seal to the Declaration which I made before the Cauzee. The Cauzee kept this Declaration. I was near the Stable, in the Houſe of Shawbaz Beg Cawn, *and heard* Zekereah ſay, that, by virtue of theſe Papers the Begum claims the Eſtate of Shawbaz Beg Cawn, or Words to that Effect ; alluding to the Paper I have now in my Hands. What I ſaid before the Cauzee, was taken down in Writing, and under his Seal."—On his Croſs-Examination, ſays, " *I remained in the Stable,* which was near the Dewancaunna, at the Time the Cauzee ſent to the Begum, to demand ſuch Papers as ſhe had ; and as to my giving Evidence of what paſſed on that Occaſion, News came to me, from Time to Time, of what paſſed in the Dewancaunna. I myſelf went and came ſeveral Times. I mean to ſay, that ſomebody came to the Stable, and told me what paſſed. I do not recollect who came and told me ſo : I mean to ſwear, that a Perſon came to me, and told me that Zekereah had produced Two Papers, upon which, he ſaid, the Begum founded her Claim. It is ſo long ago, I do not remember who it was that came to me. I mean to ſwear, that I did not hear what Zekereah ſaid with my own Ears, but that I was told ſo : I did not hear what Zekereah ſaid.—In order to make you underſtand the Matter, I told you the Cauzee ſent for me while this Matter was in Agitation : As to which is true, whether I heard Zekereah ſay theſe Words, or heard it from another, that is my Evidence which I have now mentioned. That while this Matter was in Agitation, I was *then ſent for* by the Cauzee. The Truth is, I got Intelligence of it. With regard to that being true, reſpecting what Zekereah ſaid to me, after ſuch a Time, how can I ſay what is true, or what is not true ? a Man forgets what he ſaid laſt Night.—I cannot ſay certainly, whether the Hebenamah (Exhibit N.) was delivered to the Cauzee upon the Day when Cojah Zekereah produced that and the other Papers ; and ſaid, theſe were the Papers on which the Begum claimed. I do not remember that the Cauzee returned the Paper (Exhibit N.) at the Time it was produced. Zekereah gave this Paper to the Cauzee ; and upon that I was called. I was not preſent when it was delivered."

Conſidering how liable Miſtakes are to happen, in examining or taking down in Engliſh, the Evidence of a Witneſs who ſpeaks in Perſian or Moors ; and that the Queſtions put to Niaz Allee, are not written down (as they were in the evaſive and contradictory Part of Zekereah's Evidence, about his Hand-writing) ſo as to point out his ſeparate Anſwers, and to what Queſtion each applied, it may not be deemed unreaſonable to ſuppoſe, that the Words in Niaz Allee's Depoſition, *and heard*, may have been put down inſtead of *I heard.* His Evidence would then ſtand, "I was near the Stable, in the Houſe of Shawbaz Beg Cawn. I heard Zekereah ſay, &c." I will beg Leave to examine it, with this ſlight Alteration.

The Firſt Part of Niaz Allee's Evidence appears to be intended merely to account for his being called before the Cauzee ; and it is plain he did not mean to miſlead the Court, or to ſay that he was preſent at the Time the Cauzee called upon Zekereah to produce the Papers ; and that Zekereah firſt produced them ; for immediately after, mentioning the Circumſtances, he ſays, *I was ſent for*, which is the ſame thing as to ſay, I was not preſent when this paſſed. But it is probable, from the Report of the Cauzee and Muftees, written at a Time when they could have no Idea of this Action, and from Zekereah's own Account of the Matter, that he was *repeatedly* called upon to produce the Deeds under which the Plaintiff claimed ; and that the Witneſs living in the Houſe, and going backwards and forwards, did hear the Cauzee, at one Time or other, call upon him ; and if he, Niaz Allee was examined to the Hebenamah before the Cauzee, in Preſence of Zekereah, he could hardly fail to hear Zekereah aſſert the Begum's Claim in virtue of it, and of the Ekrar Aum. The Fact of the Production of this Deed, does not depend on the Teſtimony of this Witneſs only. Kurreemoolah ſwears poſitively that he ſaw Zekereah produce it ; and the Report of the Cauzee and Muftees alſo declare that it was produced ;—and ſurely, ſuppoſing them included, to evince the Juſtice of their Determination againſt the Begum's Claim (and Judges having formed an Opinion, naturally place every Matter in the Point of View moſt favourable to it) they would hardly have ſtated that a Deed of Gift in favour of the Begum was *given in, but appeared to be forged,* if they could truly have ſaid, as they did with Reſpect to the Marriage Settlement, that it never was produced, and therefore, that they had no Evidence of its Evidence. — I had often examined and croſs-examined Niaz Allee before the Trial, and never had any Reaſon to have the leaſt Doubt of his Veracity ; and I am inclined to think that this apparent Contradiction in his Evidence aroſe in the following Manner :—When he ſays, He heard Zekereah aſſert his Claim, he was ſpeaking only *generally* to the Fact. Afterwards, on his Croſs-examination, he is tied down by the Queſtion to anſwer, whether he *was* preſent at the *preciſe* Time when Zekereah firſt brought the Papers from the Begum, and produced them before the Cauzee : and to this he anſwers, That he was not ; he was in the Stable at that Time, and only heard of it from others : And being a reſerved and diffident Man, and finding that he was accuſed of contradicting ſomething that he had ſaid at the Beginning of his Examination, he attempts to explain his Meaning ; and this Explanation is perfectly conſiſtent with what he had firſt ſaid, that he was *ſent for.* And he concludes his Evidence with ſaying, that he was not preſent when the Hebenamah was delivered.

The Variation in his Evidence ſeems to depend greatly on the Interpretation of the indefinite and equivocal Verb *produced.*—If an Engliſh Witneſs that had *not* been preſent at the Time a Paper was firſt delivered, but came afterwards and ſaw it before a Judge, ſhould be aſked, if he had ſeen the Paper produced before the Judge, he might, according to the Manner in which he underſtood the Queſtion, anſwer either no or yes.—There is no Word, perhaps, in the Moors Language, anſwering fully to the Meaning of produce: But this throws it only upon the Interpreter to find out the Intention of the Queſtion; and the Anſwer, yes or no, muſt depend on, whether he uſes Words to aſk the Witneſs if he was preſent when the Paper was *taken out* and ſhewn, or generally, if he ſaw it *exhibited* before the Cauzee.

There is another Way of accounting for the apparent Contradiction in Niaz Allee's Evidence, which, to any one acquainted with the Moors Language, will appear very natural.—It is difficult to render into Moors, *and heard Zekereah ſay, that by virtue*, &c. without uſing Words, which may as well be tranſlated, and heard *that Zekereah ſaid:* and as to what follows at the End of the Sentence, *or Words to that Effect*, the Meaning of it in Engliſh, and much more ſo if the Phraſe uſed in Moors was *eſmaffut que Baut*, will appear, perhaps, to import no more, than that Zekereah ſpoke to that Purpoſe.—Did Niaz Allee ſay *I was preſent*, or *I ſaw*, or mention any Circumſtance that ſhewed clearly he meant to ſay he was preſent, the Caſe would be very different.—But the Word "*heard*" being equally applicable to what one hears with their own Ears, or by the Report of others, it will appear hard perhaps to try the Conſiſtency of a Man's Evidence by ſuch nice Diſtinctions.

In order to throw further Light on this Part of Niaz Allee's Evidence, I beg Leave to add an Extract of the Teſtimony which Kurreemoolah had before given on the ſame Sub-
Dep. N° 33. ject.—He ſays, "This Paper, Exhibit (N) is Hebenamah. I remember the Seals here of Shawbaz Beg Khan, of Cojah Zekereah, of Ghyrut Beg, of Innaet Ullah Beg, and of Mahomed Moazum, and the Word "Ullah" written in the Margin. I remember it alſo by the Word *Khud* being interlined. I remember the Cauzee's *inquiring of Zekereah*, on what Grounds his Conſtituent laid Claim to the Effects, or was poſſeſſed of them?—*Zekereah anſwered*, Three Things are the Grounds of our Right, the Hebenamah, the Ekraraum, and the Meharnama; there it was that I ſaw this Paper *produced by Zekereah.* I can ſwear *poſitively*, that this is the *very Paper Zekereah then produced.* I ſaw the Hebenamah after it was delivered, once in the Council Room at Patna, and ſince that till now I do not recollect that I ever ſaw it. I ſhould know the Paper, Exhibit (P) becauſe the Word "humma" is interlined.—I know alſo, that the Teſtimony of Innaet Ullah Beg was not added to it.—*I ſaw this Paper* in the Houſe of Shawbaz Beg Khan, at the Time that they diſputed. I myſelf took this Paper from the Cauzee or Gullaum, Mukdoom. This was one of the Papers on which Cojah Zekereah ſaid the Plaintiff founded her Claim.—This Paper, Exhibit (P) now ſhewn to me, is the Paper I have been ſpeaking of; and the Word "humma" is interlined, and the Seal of Innaet Ullah is not affixed to it."

I beg Leave to add ſome Obſervations on the Probability of the Account given of theſe Deeds. Shawbaz Beg is poſſeſſed of an Ultumghaw worth 40 or 50,000 Rupees a Year; of Houſes and Property in Patna and at Cabool to a very conſiderable Amount, and is acquainted with all the Mahomedans of the firſt Rank in the City of Patna, where he lives.—He wants to make over his Eſtate to his Wife by legal and technical Deeds. He does not apply to the Cauzee and Muftees, or to any Lawyer, to get theſe Deeds drawn and authenticated; but he makes Niaz Allee, his Moonſhee, copy a Hebenamah from a Draft made and written by Nobody knows whom (for all that is ſaid about it, is an Aſſertion that it exiſted in the Life-time of Shawbaz Beg, though Nobody can be found who ever ſaw it till it was diſcovered by Zekereah, after Shawbaz Beg's *Death*, in the Ink-ſtand, in the Stable) and has it dated the 10th Ramzan.—He gets another legal and technical Deed, called an Ekrar Aum, made; but neither before the Cauzee and Muftees, nor before the Phouſdarry, nor at the Trial in the Supreme Court, does it appear who drew this Deed, or who wrote it.—It is not written by Niaz Allee; and neither Zekereah,
Dep. N° 51. nor any body elſe, knows by whom it is written. He affixes his Seal, and executes theſe Deeds when Nobody is preſent; and one Day he pulls them out of his Pocket, and deſires Zekereah to witneſs them, becauſe "he was a Man of Learning, and therefore it is good his Seal ſhould be on the Paper."—He in the ſame Manner gets it witneſſed by Four other Perſons, who do *not* appear to be Men of Learning—Ghyrut Beg can only make a Mark; Ennayet Ullah writes ſo bad a Hand, that he is fain to get Zekereah to write the Words "it is witneſſed," over his Seal; Mazam Beg cannot write at all; and Mahomed Awuz can only write the Word Ullah.—He is employed ſome Days in getting theſe Atteſtations of the loweſt People to thoſe important Deeds, as if he choſe to pick out Perſons as Witneſſes, who could neither read nor write. At the Time the Two laſt Witneſſes atteſted the Deeds, *Iſhmael Beg*, than whom I have ſeen few Muſſulmen that in their Manners and Converſation were more of Gentlemen, was preſent; and yet he is not aſked to be a Witneſs, nor any other Man of Credit in the City of Patna.

If the Deeds themſelves are conſidered, there appear ſtrong Grounds to deem them abſurd, inconſiſtent, and illegal, both on the Principles of Common Senſe, and of the Muſſulman Law.—The Hebenamah, or Deed of Gift, dated the 10th of Ramzan, runs as follows: "Be it known, that I, Shawbaz Beg Cawn, have acknowledged and confeſſed affirmatively, truly, legally, and in a State of good Health, in this Manner, that whatever Articles, Poſſeſſions, and Goods, are my Property, all theſe *I have* in my Life-time, *wholly*, ſmall and great, either in my own Hands, or in *that of others*, of Jaguirs, or excluſive of Jaguirs, or Property *in Cabool, made* a legally valid *Gift*, and *have* delivered Seiſin and Poſſeſſion, without the Participation of any *other* Perſon, to Nadara Begum, my own Wife; ſo that no Perſon during my Life-time, or after my Death, of my Family, either nearly or diſtantly related, Male or Female, may take Poſſeſſion of, or reſume the ſame."—Thus far the Deed contains an abſolute Grant and Transfer, by Gift, of all Shawbaz Beg's actual or *future* Property, to the Plaintiff, of which he has delivered Seiſin and Poſſeſſion to her, not only of Things preſent, but of his Property in Cabool, and of Articles and Goods in the Hands of others.—It is difficult to conceive how he could give Seiſin and Poſſeſſion of Things that were not in his Poſſeſſion.—However, the Deed declares that he has done it; and every Thing that was his, has now become the Property, and is in Poſſeſſion of, Nadara Begum.—But in the next Clauſe he makes another Gift of what no longer belonged to him—He ſays, "Out of whatever Sums have been ſent to Cabool, according to the Sunnud or Sunnuds *I have given* to the Son of Mujnoon, by Name Mahomed Allum, my Uncle by the Mother's Side, the Sum of 20,000 Rupees, to be enjoyed with his Poſterity, Generation after Generation; but of the *remaining* Lands in the Country of Cabool, which either have or *may come* into my Poſſeſſion, my Wife is the Miſtreſs, to beſtow them by Computation on whomſoever ſhe may think worthy, in order that they, paſſing their Lives on its Produce, without Purchaſe or Sale, may pray for my Happineſs in Futurity."—By the laſt Part of this Clauſe, the remaining Lands, although no Lands had been before mentioned, are declared to be at the Diſpoſal of Nadara Begum, with a Reſtriction that ſhe ſhall beſtow them on Perſons who may pray for his Soul, and enjoy the Produce of them, without a Right of Sale:—So that this abſolute Grant is turned into a conditional one.—In the next Clauſe, he makes another Proviſion in Favour of Zekereah: "With reſpect to that full Siſter's Son of mine, named Cojah Zekereah, I have appointed, that, whether he remain in the Service of the Begum my Wife, or in the Acquiſition of his Learning, he be at all Times provided in Food and Raiment, directing the Defrayment of his Expences to be conſidered as One of thoſe Things abſolutely neceſſary, that his Right may not remain a Burden on me." He then grants an Annuity to Behader Beg—"The Sum of 500 Rupees ſhall annually, at the End of the Year, be ſent to the Houſe of Behader Cawn, on Condition of Service and Obedience;" and concludes the Hebenamah as follows: "She is Miſtreſs of all the *reſt*, and may give it to whomſoever ſhe pleaſes; for which Reaſon theſe few Lines have been written, as a Hebenamah, or Deed of Gift, to remain in future as a Sunnud and Document."—Thus he firſt abſolutely gives the whole of his Property to Nadara Begum, and delivers it into her Poſſeſſion, without the Participation of any Perſon; he then ſtipulates, that Allum Beg, Zekereah, and Behader Beg (without mentioning his Relationſhip, or his Father's Name) ſhall participate; and then gives the Begum *only* the *Remainder* of his Eſtate.

Exhibit O.

In examining this extraordinary Deed according to the Muſſulman Law, it is neceſſary to obſerve, that the Mahomedan Lawyers are very ſtrict in conſtruing or admitting any Deed, by which a Man excludes or cuts off his Heirs.—Thus he is not allowed to give more than *a Third* Part of his Eſtate in Legacies; and, leſt he ſhould favour one Heir in Preference to another, even theſe Legacies muſt be made to *Strangers*. He cannot give a Legacy to one of *his Heirs*. On this Principle, Deeds of Gift, which tend to defeat the End of the Law, are viewed with great Jealouſy, and require particular Acts and Solemnities, to render them valid. Theſe Acts are Four: The Offer on the Part of the Donor, the Acceptance of the Donee, the Delivery of Poſſeſſion by the Donor, and the taking Poſſeſſion by the Donee; and all this in the Preſence of Witneſſes. Shawbaz Beg's Hebenamah is deficient in almoſt every one of theſe Requiſites; the laſt of them, the taking Poſſeſſion, muſt be done at the Time of making the Gift, or by a *freſh* Act or Order on the Part of the Donor, *during his Life-time*; and above all Points in the Muſſulman Law, it is the cleareſt and moſt incontrovertible, that a Gift, not taken Poſſeſſion of during the Life-time of the Donor, is lapſed and invalid; and therefore, that a Man cannot give away that which is not preſent, or is *not in his Poſſeſſion*. So that, in the preſent Caſe, the Deed appears to be invalid, not only on account of the Inaccuracies and Illegalities on the Face of it, of the Soleciſm and Abſurdity of declaring, that he had delivered Seiſin and Poſſeſſion of what may afterwards come into his Poſſeſſion; but becauſe there is not the leaſt Proof, or the Shadow of a Ground to believe, that Nadara Begum actually received and took Poſſeſſion of Shawbaz Beg's Eſtate *during his Life-time*. On the contrary, this Deed, which required ſo many overt and ſolemn Acts, does not appear to have been executed with any Solemnities at all, or its Exiſtence to have been known by any Perſon, except Zekereah, and the Four illiterate Witneſſes, till the Examination before the Cauzee and Muſtees, and even then, according to Zekereah's Evidence, it is only talked of, but not produced.

Hedaya, Chapter of Wills.

The Ekraraum, or general Acknowledgment or Declaration, comes next to be ſtated. This Deed is dated the 11th of Ramzan, the next Day after the Date of the Hebenamah. It is to the following Purpoſe: "The Cauſe of writing theſe legally valid Lines is, that I the Publiſher, Shawbaz Cawn, having willingly, and of my own Deſire, without Force or Diſlike, made this truſt-worthy and legally valid Acknowledgement, in this Manner, that whatever is in Poſſeſſion of immoveable Eſtate in Lands, Houſes, Villages, Slaves Male and Female, Robes, Cloths, or Stuffs of Silk, Goods, Caſh, Articles eſtimated by Meaſure or Weight, or reckoned by Number, Moveables, Veſſels or Vaſes, Bed Cloaths and Carpets, and whatever may come under the Denomination of Thing or Goods, and whatever *eſtabliſhed* Debts are due from other People; all theſe are the Right and Property of Nadara Begum, the Daughter of Shaiſta Khan, my Wife, and are in my Hands, in Uſufructu (Aareeit) and not of Right, and my Name in Bills of Sale, and Bonds, is alſo as in Truſt (Aareeit) being in Truth the Right and Property of the ſame Perſon. I have diſclaimed and renounced all falſe and contentious Claims, in regard to the ſaid Acknowledgment; and I have made a general Diſcharge, and a complete and entire Relinquiſhment; neither have *I* or my *Succeſſors* therein any Right or Demand. The ſaid Woman, in reſpect to me, the ſaid Affirmant, hath ratified or confirmed the whole of the aforeſaid Particulars, ratified them ſincerely, truly, and legally, as done before juſt and reſpectable Men." By the former Deed, dated the 10th of the Month, Shaubaz Beg had given his whole Property, and delivered Poſſeſſion of it to Nadara Begum; had given 20,000 Rupees of his Money, or Land at Cabool, to Allum Beg, and had burdened this Grant to his Wife with an Annuity to Behader Beg, a Maintenance to Zekereah, and other Conditions: in ſhort, had diveſted himſelf of the Poſſeſſion, as well as the Right, without any Reſervation whatſoever as to himſelf. But on the 11th, he contradicts the former Deed, declares the Eſtate and Effects to be ſtill in his Poſſeſſion, takes upon him to exerciſe Dominion over it, and to make a new Diſpoſition of his Eſtate. The former Deed, beſides the Gift of 20,000 Rupees to Allum Beg, and the Proviſions in favour of Behader Beg and Zekereah, ſtipulated that the Land at Cabool ſhould be appropriated to a particular Purpoſe, and contained ſeveral Conditions. The preſent Deed does not mention a Word of theſe Gifts or Conditions; but ſays, whatever is in my Poſſeſſion, is *all* the Right and Property of Nadara Begum. The Money or Land at Cabool was ſurely as much in his Poſſeſſion on the 11th as on the 10th of the Month; yet, in the former Deed, he gives Part of it to Allum Beg; in the latter, he declares the Whole of it to be Nadara Begum's. What remains then to Allum Beg, and the other Donees? Were their Names inſerted in the Hebenamah, only that it might appear that Shawbaz Beg had not forgot them; but at the ſame Time, the Clauſe in their Favour ſo worded, that they could not benefit by them? And is the Ekraraum, which was made and executed at the ſame Time, intended to defeat the Hebenamah? It cannot be ſaid that the Ekraraum is a Counterpart of, and ſubſidiary to the Hebenamah; it does not refer to it; and if the Declaration and Acknowledgment therein made, are of any Effect, diſpoſes of the Property in a different Manner. But theſe Two Deeds are incompatible, not only in their Intent and Operation, the Subject upon which they are to operate is alſo different. The Hebenamah extends to Goods in the Hands of others, and to Lands in the Country of Cabool, that *may come* into Poſſeſſion. The Ekrar goes only to what *is* in Poſſeſſion, and to eſtabliſh Debts.

It was thrown out at the Trial, on the Part of the Plaintiff, that theſe Deeds were of the Nature of a Leaſe and Releaſe. It were extraordinary, indeed, if Two Perſian Deeds, made in a remote Part of Aſia, ſhould be found to reſemble thoſe Two technical and fictitious Inſtruments; they ſo far agree, that in both, the one is dated a Day after the other. But in a Leaſe and Releaſe the Covenants are reciprocal, and the Deſcription of the Premiſes in both, exactly correſpond. The Leaſe is executed by both Parties, and the ſame Perſons are alſo Parties to, and execute the Releaſe. In the preſent Caſe, the Hebenamah is not executed by Nadara Begum, Allum Beg, and the other Grantees, neither have they executed the Ekraraum, or are Parties to it, and the Premiſes are materially different.

The apparent Purpoſe of the Ekrar Aum is to make up for the Want of thoſe Acts and Formalities which the Muſſulman Law has wiſely preſcribed to be eſſential to the Validity of a Deed of Gift, as a Security to the natural Rights of Inheritance, and as a Precaution againſt Fraud and Colluſion. And ſuppoſing the Deed to have been forged after Shawbaz Beg's Death, the Ekrar Aum may naturally be accounted for: It was eaſy to aſſert in the Deed of Gift, that Seizin and Poſſeſſion had been delivered to Nadara Begum. But as it was notorious that Shawbaz Beg remained in Poſſeſſion of all his Eſtate to the Hour of his Death, and as the Law requires that *actual*, not fictitious, Poſſeſſion of the Thing given, ſhall be delivered by the Donor to the Donee during his Life-time, and before Witneſſes, which after Shawbaz Beg's Death was impoſſible to be done, the Ekrar Aum appears to be calculated to cure this eſſential Defect, by ſaying the Eſtate is in my Poſſeſſion, but it is only in Truſt for the Begum. This Fiction, to be ſure, would effectually defeat the Intention and Precautions of the Muſſulman Law, and open a wide Door to Fraud and Forgery, which is ſo eaſy in this Country, where Deeds, as in the preſent Caſe, are executed only with the Seal of the Grantor. To fabricate and render effectual a Deed of Gift, would thus require only the Atteſtation and Declaration of Two or Three Witneſſes, that they had put their Seals in the Donor's Preſence. But it ſeems to be a clear Point in the Muſſulman Law, that nothing but actual Poſſeſſion will give Validity to a Gift. Zekereah himſelf admits it. He ſays, "It is neceſſary, according to our Books, that there ſhould be a Delivery in ſome Way or other, to the Perſon in whoſe Favour the Hebenamah is made in the Life-time of the Donor."—He ſays, indeed, "In the Ekrar Aum, even that is not neceſſary."—It is to be obſerved, that according to the Muſſulman Law, Property can be acquired or transferred only upon certain Conſiderations, and in certain Ways, ſuch as by Will, Purchaſe, Inheritance, Gift, &c. A ſimple Declaration or Acknowledgment therefore of A, that ſuch Things belong to B, will not make them B's, unleſs it be ſhewn upon what Grounds they do belong to him; and an Ekrar or Declaration is not a Foundation of Property, becauſe it does not ſet out the Conſideration or Cauſe of the Property; and a Man's Claim under an Ekrar is not valid, becauſe, where he avoids to ſhew the Foundation of his Claim, and does not ſay it is mine, becauſe *I purchaſed it*, or becauſe ſuch an one *gave* it me, but only that ſuch a Man declared and acknowledged that it was mine; the Law preſumes that he has no Right or Foundation of Property to ſhew, otherwiſe he would ſet it forth, and therefore rejects his Claim. The Authorities for this Opinion are pointed out in the encloſed Depoſition of Mahomed Coſſim, a Moulavie of much Learning, and ſerve to confirm the Opinion of the Cauzee and Muftees, who in their Report to the Council of Patna declare, that an Ekrar Aum is not ſufficient to ſecure Succeſſion to an Inheritance. Theſe Authorities and Quotations from the Muſſulman Law Book, as to the Nature, not only of an Ekrar Aum, but alſo of a Hebenamah, being ſo very full and clear, it is unneceſſary to add more upon this Subject.

Beſides the Depoſition above mentioned, there is alſo another as to the Share which a Widow without Children inherits of her Huſband's Eſtate; and I believe it is one of the cleareſt Points in the Muſſulman Law, that her Share is only a Fourth; and that it is not in the Huſband's Power, by any Deed that takes Effect *after his Death*, to give her more. So that in caſe the Deeds were either fictitious, or illegal, or not duly executed and proved, or as Zekereah ſays, never produced, the Plaintiff certainly had a Right only to the Fourth Part of Shawbaz Beg's Eſtate, agreeable to the Determination of the Cauzee and Muftees.

But there is an Informality, according to the Engliſh Law, in the Enquiry and Determination at Patna, of which great Advantage was taken on the Part of the Plaintiff. Behader Beg, in his Petition, claims the Whole of Shawbaz Beg's Eſtate, as being his adopted Son. No Proof appears to have been given by him of this Fact; and the Deciſion is paſſed, and the Diviſion made in favour, not of Behader Beg, the original Complainant, but of Allum Beg his Father. It is hardly poſſible to reconcile this apparent Abſurdity to the Ideas of Engliſh Lawyers. It is difficult even to prevail upon a Counſel to get up and expoſe himſelf to the Ridicule which an Attempt to juſtify what they muſt deem ſo extraordinary a Procedure, would draw upon him. Muſſulman Lawyers, however, inſiſt that it is lawful for the Cauzee or Magiſtrate, nay that it is his Duty, when it appears that a Perſon *not preſent* has a Right to any thing, or to the Share of any thing in Diſpute, to appoint an Attorney or Guardian on Behalf of the abſent Perſon, to take Charge thereof, and to deliver it into his Poſſeſſion. For a Perſon abſent in another Country can no more aſſert his Right, or defend his Property, than an Infant or an Idiot; and therefore it is the Duty of the Cauzee or Magiſtrate, who is inveſted with a general ſuperintending Power for the Purpoſes of Juſtice, to watch over the Rights and Property of ſuch Perſon; perhaps, if judged on liberal Principles, this Power will appear equally reaſonable as that which the Magiſtrate in more civilized Nations exerciſes of appointing Guardians and Adminiſtrators. The Power in both Inſtances is founded on Neceſſity and Juſtice. A Man dies inteſtate; his Effects and Eſtate are in the Poſſeſſion of ſomebody, and the Monies that are due to him are in the Poſſeſſion of his Debtors. He himſelf can no longer watch over his Property; and he has appointed no Perſon to do it. The Right to his Eſtate is in his Heirs, and according to the ſtrict Principles of Juſtice, they and they only have properly the Right of ſaying who ſhall manage that Eſtate, which is now theirs. But they are in a diſtant Country. What is to be done? Shall the Effects and Monies be left in the Hands of thoſe Perſons who happen to have Poſſeſſion of them? No, the Magiſtrate, whenever the Caſe is repreſented to him will appoint ſome one, not ſurely on Behalf of the Deceaſed; for he cannot be benefited or injured, but on the Part of the abſent Heirs, to collect the Debts, and to demand, receive, and take Poſſeſſion of the Effects and Eſtate which now belong to them, and even to demand and receive Legacies, which the Deceaſed during his Life-time had never claimed or poſſeſſed.—Call this Man Adminiſtrator to the Perſon who is dead; furniſh him with Letters and Seals; let him uſe the Name of the Deceaſed in managing the Eſtate; ſtill, if his Title be analized, it will be found that he derives no Right or Authority either from the Deceaſed; or from the Heirs, and acts only by virtue of the Nomination and Appointment of the Magiſtrate.—The taking Security for his duly adminiſtring the Eſtate, is a Precaution in favour of the Heirs or Creditors; and if not done, they only can be injured.—The Debtors and Perſons in Poſſeſſion, who are obliged to deliver up the Effects and Property to the Adminiſtrators, have no Right to complain if a fit Perſon is not appointed, or Security taken from him having no Intereſt whatſoever in his Appointment.

In like Manner it is urged on the Part of the Defendant, that upon Shawbaz Beg's Death, his Widow's Share of the Inheritance was and could be no more than One Fourth; that ſhe could not be entitled to a larger Part of his Eſtate, except under a Marriage Settlement, which did not appear; that a Claim under a Deed of Gift was to ſay that Shawbaz Beg left *no* Eſtate, and that every Thing which he had belonged to her, and was given into her Poſſeſſion during his Life-time; that in conſequence of Behader Beg's Application, ſhe was called upon to ſhew a Right to more than her Widow's Fourth; that ſhe either produced Deeds which were not duly proved, were invalid upon the Face of them, and which did not eſtabliſh her Right; or, as her Witneſſes endeavoured to prove at the Trial, did not produce any Deeds at all; that, if ſhe had any good Title to more than her Fourth, it was incumbent on her to have ſhewn it. Behader Beg's Complaint admitting, that he had no Right by Adoption, being well founded with reſpect to her, becauſe he was certainly Shawbaz Beg's Nephew and Heir, and therefore his Title by Succeſſion to the Three Fourths of the Eſtate, might be good, and at all Events was preferable to that of the Widow, who is abſolutely debarred from taking more by Inheritance than One Fourth: That the Widow could not, or did not ſhew a Right to any thing beyond her Share by Inheritance; that it was notorious, was proved by Evidence, and particularly by the Admiſſion of Zekereah, the Widow's Attorney, although theſe were not allowed to be given in the Trial, on the Grounds formerly ſtated. That Allum Beg, the Father of Behader Beg, was next Heir to Shawbaz Beg, and entitled to Three Fourths of the Eſtate; that whatever other Heirs may have, the Widow has no Right to find Fault with the Deciſion in favour of Allum Beg: Nor can it be ſaid, that ſubſtantial Juſtice with reſpect to her was not done, if her Fourth Share was allotted to her; and if ſhe declined to take it, it was her own Fault: That the Plaintiff has reſted her Title chiefly on the Right of Poſſeſſion; that although it is ſaid, according to the Maxims of Engliſh Law, Poſſeſſion is a good Title againſt every one except the Owner, yet an Adminiſtrator, who, as has been ſhewn is not the Owner, nor appointed or truſted by the Owner, and who has no Right but the Fictitious one which the Magiſtrate gives him, ſhall compel a Perſon in Poſſeſſion to deliver up; and the *Onus probandi* that he has a Right to retain it, ſhall lie upon him! That Behader Beg was the neareſt Male Relation of Shawbaz Beg on the Spot, and Son to the Heir at Law, and was therefore the propereſt Perſon to be entruſted with the Eſtate; That in conſequence of the Perwannah and Order of the Council at Patna, reciting that Behader Beg and Nadara Begum were diſputing concerning the Property, Effects, and other Things left by Shawbaz Beg Cawn; and directing them according to aſcertained Facts and legal Juſtice, to tranſmit to the Council a written Report on that *Cauſe* under their Seals, ſpecifying how much was to be given to *that* Perſon; the Cauzee and Muftees did examine, did find, and did report to the Council, that the Widow had a Right only to a Fourth; and as to how much of the Eſtate was to be given to *what* Perſon; that Allum Beg was entitled to the remaining Three Fourths, which ought to be given into the Charge of his Son, Behader Beg, as the propereſt Perſon to take Care of it; that the Council, as appears by the Evidence of Mr. Droz and Mr. Young, and by the Proceedings at Patna, having read the Report, the Vakeels on both Sides being preſent, and no Objections being ſtated, nor Grounds ſtated to ſhew that it ſhould be ſet aſide, ordered the Cauzee and Muftees to deliver One Fourth of the Eſtate to Nadara Begum, and Three Fourths to Allum Beg; that in the Firſt Place, they only gave an Opinion, and in the next they only executed the Orders of the Council, as it was their Duty to do; that there are no Grounds to believe that they acted corruptly, or malo animo, unleſs by reaſoning in a Circle, and firſt determining their Proceedings to be unjuſt and irregular; and then, that being unjuſt and irregular, therefore they muſt have acted malo animo. That the Report of the Cauzee and Muftees contains only an Abſtract of their Proceedings; that there were other Papers beſides, and particularly Zekereah's Admiſſions (which they have been unable to give in Evidence) his contradictory Accounts, and other Circumſtances which weighed with them in forming their Judgment; that their Duty was only to form an Opinion, and report it to the Council, who, if they judged it neceſſary, or ſaw Cauſe, might have ſet it aſide; that the Plaintiff had an Opportunity of appealing, not only to the Council at Patna, but to the Governor General and Council; and as ſuch Appeals in this Country are in the Nature of new Trials, where both Parties are allowed to examine Witneſſes de novo, the Plaintiff could not be ultimately injured or precluded from Juſtice, by their not ſtating or even formally examining Points that were notorious, and known to every body; that at the Time of the Enquiry, they could have no Idea that they were afterwards to be proſecuted in the Supreme Court, and therefore omitted many Things, which they now find a Court of Engliſh Law requires; that knowing that their official Seals and Atteſtations obtain Credit in every Part of Hindoſtan; that their Reports, and the Examination of Witneſſes under their Seals, are conſidered by the Nazim as ſufficient Evidence of the Guilt of a Criminal, they could not have believed that their Report upon Facts and Evidence would have been denied all Credit, deemed as the mere ipſe dixit of a Party or Individual, and would not be admitted unleſs they could re-eſtabliſh all theſe Facts, and at Two Years Diſtance, reprove all the Evidence that had been given before them;—a Taſk ſo arduous, that in order to afford them any Chance of vindicating themſelves, it would have required that Witneſſes to the Teſtimony which the Witneſſes gave, and to the Contradictions of Zekereah, ſhould have been provided; that if Judges or public Officers are to be perſonally anſwerable and liable to Puniſhment for Opinions and Proceedings, which other Judges, trying them by different Principles and by different Laws, may deem wrong, without any Proof of Corruption or Partiality, it is impoſſible for them to act; that the Ideas and Maxims of Juſtice vary, and in many Inſtances are totally oppoſite amongſt different Nations; that even in the ſame Country, Judges and Men differ eſſentially in determining what is right, and what is wrong; and that the Situation of Perſons, acting in public Capacities, muſt indeed be deplorable, if they may be ſued for the Value of all the Property, which, either by their Opinions or Deciſions, or by their executing the Orders of what they had Reaſon to deem the eſtabliſhed Authority and Government of this Country, may be tranſferred from one Individual to another; that the Situation of an Individual alſo, muſt be lamentable indeed, if, having a Claim on a Native of this Country, and ſuing for it in one of the Country Courts, (where, as in the preſent Caſe, he can only ſue) he is in conſequence expoſed to a Proſecution for a Treſpaſs, and to have a Decree againſt him, not only for the Value of what he recovered, eſtimated at the higheſt Rate, but to be condemned in Damages, ſo heavy as to ſubject him to perpetual Impriſonment, as Party to the Acts of the Aſſeſſors or Officers of the Court to which he applied for Juſtice.

Having thus gone through the Depoſitions in the Cauſe, it is neceſſary, before I conclude this Addreſs, to give ſome Account of the Pleadings or Grounds on which the Defendants endeavoured to juſtify their Conduct; which Subject I have hitherto avoided, leſt it ſhould break in upon the State of the Evidence produced at the Trial. The Defendants, as was formerly mentioned, in Anſwer to the Plaint of Treſpaſs, beſides pleading the General Iſſue of Not Guilty, gave in *ſpecial Notices of* Juſtification, in order to ſhew the Right or Authority by which they acted. The Subſtance of theſe I ſhall ſtate as briefly as poſſible. The Notice on the Part of the Cauzee and Muftees aſſerted, that prior to the late Act of Parliament, the Ordering, Management, and Government of theſe Provinces, was veſted in the late Preſident and Council, who eſtabliſhed certain Courts, Councils, or Committees, for the Adminiſtration of Juſtice; that prior to the Act, a Provincial Council or Committee had been eſtabliſhed at Patna, with Power to ſit as a Court, to try Cauſes of Property, to iſſue Proceſs, and to give and enforce Judgment; that *Cauſes* between Mahometans uſed there to be determined according to the Muſſulman Law; and for that Purpoſe *the ſame* uſed to be referred to certain public and known Officers of the Muſſulman Law, called the Cauzee and Muftees; that upon ſuch Reference the Cauzee and Muftees uſed to examine the *Action or Suit*, and having heard the Attornies and Evidence on both Sides, uſed to deliver in a Report, *and thereupon*, the Court uſed to paſs Judgment, ſubject to an Appeal to the Preſident and Council, and to no other; that it was uſual for the Court to commit the Execution of any meſne or intermediate Proceſs to the Cauzee and Muftees, who uſed to execute it in purſuance of Precepts or Perwannahs of the Council. After this, follows a Clauſe aſſerting a Right in the Cauzee and Muftees of ſettling domeſtic Diſputes, which, however, at the Trial, was allowed to be Surpluſage, and not inſiſted on by the Defendants. The Notice then proceeds to ſtate, That by the late Act of Parliament a Governor General and Council were appointed and inveſted with the Ordering, &c. of theſe Provinces, who have continued to intruſt the Adminiſtration of Juſtice in Bahar to the ſaid Court, and to ſuffer the Cauzee and Muftees to act and exerciſe the Powers as before deſcribed; that at the Time of the ſuppoſed Treſpaſs, Meſſrs. Sage, Droz, Law, Golding, and Young, were Members of the Council at Patna, appointed or confirmed by the Governor General and Council, with Power to ſit as a Court, &c. and the Defendants Sahdee, Barractoolah, and Muckdoom, were Cauzee and Muftees, verſed in the Muſſulman Law and Attendant on the ſaid Court; that a certain Cauſe or Suit concerning Inheritance, in which Nadara Begum was Defendant, was brought before the Council at Patna, and was referred to the Cauzee and Muftees; that pending the Suit, a Precept was iſſued to them by the Court, requiring them to ſecure and collect the Effects in Diſpute, for the Purpoſe of preventing their Removal, which they executed, as was their Duty to do; that the Cauſe was proceeded into Hearing and Judgment, and another Precept iſſued to the Cauzee and Muftees, directing them to put the Parties entitled under the Judgment into Poſſeſſion of their Shares of the Effects, which they executed. And the Notice concludes with the uſual Form, that the Treſpaſſes complained of were not Treſpaſſes, but Acts done by the Cauzee and Muftees in the Execution of their Duty.—The Notice of Juſtification of Behader Beg, was drawn on the ſame Principles, only aſſerting that he inſtituted a Suit before the Council at Patna, and in conſequence of a Judgment paſſed by them, was put in Poſſeſſion.

Exhts D and E.

When theſe Notices were read before the Court, Eight different Objections to them were ſtarted by the Plaintiff's Council; the Purport of which will appear by the accompanying Memorandum. Upon theſe, after being argued by the Council on both Sides, the Chief Juſtice delivered the encloſed Opinion; and as all of the Objections are therein obviated except the laſt, it appears neceſſary only to ſtate that, (viz. the Eighth) and to give the Subſtance of the principal Arguments uſed againſt it. The Arguments in Support of it will be found fully ſtated in the Chief Juſtice's Opinion. The Subſtance of the Objection is, that the Notice of Juſtification aſſerts a Right in the Provincial Council at Patna, only to try and determine Cauſes, in conſequence of an Authority delegated to them by the Governor General and Council; and then proceeds to ſay, that they uſed to refer, and in the preſent Inſtance did refer, the Action or Suit to the Cauzee and Muftees, who in Fact tried the Cauſe, and delivered in a Report to the Council, who thereupon paſſed Judgment; that it appears therefore on the Face of the Notice that their Proceedings were illegal, becauſe, poſſeſſing only a delegated Authority themſelves, they could not delegate it to others; it being an eſtabliſhed Maxim of the Law of England that Delegatus non poteſt delegare.

In Oppoſition to this Objection, the following Arguments occur; That according to the Strictneſs of this Maxim, even the Governor General and Council, having only a delegated Authority, had not a Right to entruſt the Council at Patna with the Adminiſtration of Juſtice; that this Maxim of the

Law of England is unknown in this Country, where the principal Officers have always exerciſed the Right of delegating their Authority to others; and that this Country is governed, and the Council at Patna, and the Cauzee and Muftees act, not according to the Law of England, but according to the Cuſtom of this Country; that in England, where this Maxim obtains, there are a Variety of Courts, and theſe Courts are aided by Juries, Examiners, Maſters of Chancery, Commiſſioners, and a Number of ſubſidiary Officers, through whoſe Means Facts are tried and aſcertained, ſo as to enable the Courts to carry on and diſpatch their Buſineſs; that they are alſo aſſiſted by 30,000 Attornies, and a vaſt Number of Counſellors, and yet the Tediouſneſs of the Law is a Subject of univerſal Complaint; that thoſe Provinces contain moſt probably 10 or 12 Millions of Inhabitants, and to adminiſter Juſtice to them with the ſame Regularity, would require many Courts and a vaſt Number of Attornies; and whether this would tend to the Eaſe and Happineſs of the People, is a Point which will admit of much Doubt; that the Number of Engliſhmen now employed in carrying on the Civil Government over ſo many People, is probably not above 200 or 300; that a very large Proportion of theſe are and muſt be engaged in different Offices at the Preſidency, and the greateſt Part of the Remainder are taken up in collecting a Revenue of Three Millions of Money, and in providing an Inveſtment for remitting the Surplus Revenue to England, without which theſe Provinces would not be worth keeping; that the Number therefore of Engliſhmen qualified for the Adminiſtration of Juſtice, who could be appointed to that Duty, does perhaps not exceed 20 or 30; that if the numerous Diſputes that ariſe amongſt ſo many Millions of People were to be tried and decided only by theſe 20 or 30 Engliſhmen, it would be impoſſible to carry on the Government of the Country; and that although a few Cauſes in Compariſon of the vaſt Number of Diſputes might be decided with great Form and Regularity, yet the Bulk of the People would thus be deprived of any Chance of Redreſs, and be left in a State of Nature, to which any Mode of Government is preferable; that the judicial Regulations of the late Preſident and Council, pointed in the Reports of the Secret Committee of the Houſe of Commons, and under which the preſent Provincial Courts of Juſtice are eſtabliſhed, directs, that they hear the Parties *vivâ voce*, and if neceſſary examine Evidence; but does not preſcribe the Mode by which the Evidence is to be examined, whether *vivâ voce* and in Preſence of the Court, or by Means of Commiſſioners or Examiners; and therefore the Council at Patna had a Right to refer the Examination of the Evidence in the Cauſe, which indeed is virtually the ſame Thing as the Cauſe itſelf, to the Cauzee and Muftees, ſubject nevertheleſs to their Reviſion or Correction, if ſufficient Grounds for further Enquiry ſhould appear; that in the ſame Manner the Supreme Court on the Equity Side entruſt the Examination of Evidence to their Examiner or to Commiſſioners, and refer Accounts, and other Points upon which the whole Merits of the Cauſe hinge, to be tried by a Maſter in Chancery, upon whoſe Report they paſs Judgment unleſs ſufficient Grounds to ſet it aſide be ſhewn by either of the Parties; that to give the Muſſulmans of this Country the full Advantage of being tried by their Laws, it is neceſſary that the Fact, as well as the Law, be referred to their own Doctors, inaſmuch as it requires a Knowledge of the Law to try the Fact, and to diſcover the Points that are material to the Cauſe, and upon which the Law turns; that one would naturally be of Opinion, that the Cauzee and Muftees are better qualified to examine a Muſſulman Cauſe, than Engliſhmen; and that their Examination would be more grateful to their Countrymen; and that there appears no juſt Grounds for a contrary Opinion; that the Number of Engliſhmen acquainted with the Language of this Country, is very ſmall; and even of theſe, few are ſo far Maſters of it, as to be able to write it, or to read it without Difficulty; and if no Fact were to be examined but by them, or in their Preſence, and no Cauſe determined till all the Papers, Accounts, and Evidence had been tranſlated, the Adminiſtration of Juſtice would be almoſt entirely ſtopped. That the Principle of this Maxim, that a judicial Authority cannot be delegated by Delegate, *viz.* that the Sovereign Power has not Confidence in the Perſon to whom it is delegated, will be found, perhaps, not to be invariably attended to; that Juries, for Inſtance, who try Facts of the greateſt Importance, and who even take upon themſelves alſo to judge of the Law, are appointed by the Sheriff, or at leaſt are not ſpecially choſen and entruſted by the Sovereign Power; neither can it be ſaid, that the Members of a Court Martial, who inflict capital Puniſhments, are entruſted with this Power, on account of their being peculiarly qualified for the Office of Judge; that it appears, therefore, that Caſes and Situation may occur, where Policy or Neceſſity require that the Strictneſs of this Maxim ſhould be relaxed.

The Validity of the Notice of Juſtification, and the Objections that were ſtarted to it, came on to be argued after the Plaintiff had produced her Proofs in ſupport of the Plaint; and the Court were pleaſed to determine, that this Eighth Objection to the Juſtification was well founded; and thereupon, as well as becauſe ſome of the Counts in the Plaint were not covered, ſet aſide the Notice of Juſtification given in by the Defendants, but allowed them to bring Proofs in ſupport of it, for the Purpoſe of an Appeal: But they could derive little Advantage from this Indulgence of the Court: For, as the Plaintiff's Counſel thereupon inſiſted, that ſtrict legal Proof of every Matter ſhould be given, and refuſed to admit the moſt certain and notorious Points, it was impoſſible for the Defendants to ſupport their Juſtification. It was found impracticable even to prove the Eſtabliſhment of a Council at Patna. The Books of Proceedings of the late Preſident and Council, brought from the Council Chamber by the Sub-ſecretary to the Board, were produced, but were not admitted to be given in Evidence, becauſe not properly authenticated; and upon the Account given by the Sub-ſecretary, that they were copied from the foul Minutes and other Papers, the Court conſidered them only as Copies. According to the ſtrict Principles of Evidence which a Court of Engliſh Law has thus a right to require, and while no Credit is given to the Records and Proceedings of the Provincial Councils or Courts, unleſs proved by a Perſon who was preſent when they were had, it muſt appear ſcarcely poſſible, in any Inſtance, to eſtabliſh either the Legality and Competency of the Country Courts, or the Juſtice and Regularity of their Proceedings.

The Defendants having thus failed in ſupporting their Juſtification, were obliged to betake themſelves to the Plea of Not Guilty; and to go ſimply in Mitigation of Damages. Mr. Droz, Mr. Young, and Mr. Golding, Three Members of the Council of Patna, gave Evidence as to their Opinion of the Right of the Cauzee and Muftees to examine Cauſes referred to them, and that it had been the Practice for the Council to make References to them; and as no written Proofs of their Authority could be given, this was the beſt Evidence that could be produced in ſupport of it.

Theſe Proofs, however, went only to the Uſe and Practice, without eſtabliſhing any Right in the Cauzee and Muftees to try and examine; and their Proceedings were conſequently deemed illegal. But had the Complaint of Behader Beg been tried at Patna by the Chief and Council, inſtead of theſe Muſſulman Officers, it muſt have been difficult, on the Principles above-ſtated, to make out a good Right even in them. The Juriſdiction, indeed, of the Supreme Court is confined to Britiſh Subjects, and Perſons in the Service of the United Company, or of Britiſh Subjects; and, according to this Deſcription, its Authority, meaſured on the moſt enlarged Scale, extends but to a ſmall Part of the Inhabitants of theſe populous Kingdoms. The great Body of the People are exempted from its Controul; and unleſs it be ſuppoſed that the Legiſlature, at the Time of paſſing the late Act of Parliament, meant to leave them in a State of Nature, muſt be amenable to the Country Courts. But although the limited Powers of the Supreme Court ſtrongly evince the Neceſſity of thoſe local Judicatures; and the Judges, in Opinions occaſionally given from the Bench, ſeem inclined to conſider them as legal Inſtitutions; yet, as the Act of Parliament and Charter of Juſtice only allude to them, but do not expreſsly ſanction and recognize them, the Court cannot, according to the ſtrict Principles of Law, acknowledge or take Notice of theſe Eſtabliſhments, unleſs they be pleaded. In every Inſtance, therefore, where a Perſon is ſued for Acts done under the Country Courts, the Firſt Point towards his Defence is to ſhew, that theſe Courts are duly and legally eſtabliſhed. And as this cannot be done by a direct Appeal to the Statute or Common Law, he is reduced (as in the preſent Cauſe) to the Neceſſity of ſetting forth their Eſtabliſhment and Juriſdiction in a Plea or Notice of Juſtification. For this Purpoſe he muſt plead the Power of ordering and governing in the Governor General and Council, muſt aſſert the Right in them of eſtabliſhing Courts, as a neceſſary Conſequence of ſuch Power; muſt ſhew that they have eſtabliſhed or continued them, and then muſt ſet forth the Manner in which the Cauſe of Action aroſe, and ſhew that it was not a Treſpaſs, but a due and regular Act of Authority of a Court ſo eſtabliſhed.

As the Law Books afford no Precedents for ſuch Kind of Pleadings, the Company's Counſel have hitherto found it a moſt difficult Taſk to ſtate theſe different Points, and to draw an unexceptionable Notice of Juſtification, ſome Flaw or Inaccuracy conſtantly occurs, and expoſes it to ſtrong legal Objections. In the Cauſe under Conſideration, many Objections were ſtarted; and although the Chief Juſtice, viewing the Inaccuracies in the Notice with much Indulgence and Liberality, was pleaſed to conſider them as immaterial, yet this Opinion was declared to be, not that of the whole Court, but only his own. The other Judges gave no Opinion on the Subject, as there appeared other Grounds ſufficient to ſet aſide the Juſtification. The Law Maxim of Delegatus non poteſt Delegare, preſented an Objection which was unanimouſly deemed fatal; and the Acts of the Cauzee and Muftees being done by virtue of an Authority delegated to them by the Council at Patna, were conſequently adjudged to be illegal.

But however unjuſtifiable their Conduct may appear, when tried by the ſtrict Principles of Law, Humanity will plead in their Behalf, that they were totally unacquainted with this and every other Maxim of the Engliſh Law; that they were ignorant of the Conſtitution of the Chief and Council of Patna, and of the particular Rights with which it inveſted them; but conſidering it as their Duty to execute the Orders of the Hakim or reigning Power, and knowing that the Engliſh poſſeſſed the Sovereign Power in this Country, and that the Council at Patna had the Supreme Authority in the Kingdom of Bahar, they thought themſelves bound to obey their Orders, and examine the Cauſe of Nadara Begum, in the ſame Manner as they would have obeyed the Orders of the Governor General and Council, or Supreme Court, without queſtioning their Authority, or examining how far Conqueſt and Superior Force conferred the Right of exerciſing it; that they had often, as on this Occaſion, examined Cauſes, and inquired into Complaints, in conſequence of ſimilar Perwannahs of the Council or Provincial Court of Adaulut, without the moſt diſtant Idea, that what they looked upon as a Point of Duty, would be imputed to them as a Crime, and expoſe them thus to perpetual Impriſonment.

But ſuppoſing that the Notice of Juſtification had been free from this, and every other Objection with reſpect to Subſtance or Form, ſtill, as a Court of Law can admit no Point however unqueſtionable, that is not eſtabliſhed by Evidence, it requires that the Matters therein ſet forth ſhould be ſupported in every Part by direct legal Proof. The Act of Parliament is ſufficient Evidence of the Power of ordering and governing being in the Governor General and Council; and according to the Opinion of the Chief Juſtice, the Right of eſtabliſhing and new modelling the Country Courts is thereby conveyed; but on this Subject the other Judges did not declare their Sentiments. The Proof of the actual and due Eſtabliſhment of theſe Courts, is a Point of ſome Difficulty. It can only be found in the Proceedings of the Council; and it appears to be no eaſy Matter to give the Books which contain them in Evidence. But the Clauſe in a Juſtification moſt difficult to ſupport by Proof, is that which ſets forth the Cauſe of Action, and aſſerts that the Defendants duly exerciſed their Authority. For as they are ſued, not as Officers of a Court, but ſimply as Individuals accuſed of a Treſpaſs, no Papers or Accounts authenticated by them can be received as Evidence in their Favour, being conſidered only as the Aſſertion or ipſe dixit of a Party. No Credit will be given to Papers or Proceedings, even of the Provincial Council or Court, atteſted by the Members, and their Signature proved. Every Point, in ſhort, muſt be eſtabliſhed by the vivâ voce Evidence of indifferent Perſons, preſent when the Matters alledged on the Part of the Defendants actually paſſed, or by the Depoſitions of the Members of the Council, who can prove that the Proceedings were actually had. Should the Juſtification depend in any way on the Laws or Cuſtoms of this Country, theſe alſo muſt be proved by vivâ voce Evidence; and, as they are often repugnant to the Principles of the Law of England, this requires a Degree of uniform and conſiſtent Evidence, which it is hardly poſſible to procure in this Country, where Cuſtoms are not laid down in Books of Authority, but are founded on Neceſſity, on Practice, or on the Opinions of the People.

From the peculiar Circumſtances of this Country, the frequent Revolutions it has undergone, the ſhort Period that has elapſed ſince it became ſubject to England, the ſummary Modes by which it is neceſſary to carry on the Government; it cannot be ſuppoſed that the Country Courts, either in their Juſtification, or in their Proceedings, can be compared in Point of Regularity with a Court of Engliſh Law. But I ſhould humbly conceive, were it allowable to ſuppoſe the Caſe, that it would be difficult, even for an Officer of an Engliſh Court, to ſupport its Eſtabliſhment and Proceedings by a ſimilar Mode of Trial; were a Sheriff or a Suitor, for Inſtance, to be proſecuted before Muſſulman Judges, it might be difficult for them to eſtabliſh the Act of Parliament or Charter of Juſtice, if called upon to bring Witneſſes who were preſent when they paſſed; to prove all the different Papers in the original Cauſe, if no Faith was to be given to the Authentication of the Officers of the Court, to prevail upon a Muſſulman Judge to conſider the Admiſſion of a Counſel as concluſive againſt his Client, when it appeared that he was not appointed by him, and not even known to him, upon the Principle that the Client might have Recourſe againſt the Counſel; to confirm the Depoſition of the Witneſſes by vivâ voce Evidence, or eſtabliſh the Authenticity of them, from their being ſigned in a Language not underſtood by the Witneſs; to evince the Utility of fictitious Actions; to ſet forth, to prove, and to reconcile to the Ideas of Muſſulmen, the Principles of Law and Equity on which Judgment was paſſed; and laſt of all, to juſtify all the Proceedings in carrying ſuch Judgment into Execution.

Theſe Conſiderations ſerve to point out the Neceſſity of eſtabliſhing the Country Courts on ſome leſs queſtionable Foundation; of allowing Evidences of their Inſtitution and Proceedings to be given under the General Iſſue, and of enjoining Faith to the Atteſtation of public Officers, in order to afford them an Opportunity of juſtifying. Yet, even under theſe Circumſtances, Caſes might often happen, in which it would be found impoſſible to reconcile the Modes and Cuſtoms of an Aſiatick Government to the Spirit and Principles of the Engliſh Law.

The Trial of Nadara Begum's Cauſe laſted Ten Days; and the Court, at the End of the following Term, gave Judgment in favour of the Plaintiff, and condemned the Defendants to pay 300,000 Sicca Rupees Damages. The Evidence given as to the Circumſtances and Fortune of the Defendants, againſt whom ſo heavy Damages were adjudged, is as follows: Zekereah ſays, "The Defendant, Cauzee Sahdee is a great Man, and Deputy to Shurat Ullah Cawn, and is a rich Man; the Defendants Muftee Barractoolah and Muftee Gholaum Mukdoom, are both in proſperous Circumſtances." Kurreemoolah ſays, "the Cauzee Sahdee has 100 Rupees a Month. There are Five Muftees who have in all 120 Rupees a Month." There is no Evidence as to the Subſtance of Behader Beg; and he received the Share of Shawbaz Beg's Eſtate only in Truſt for his Father.

I beg leave to ſubmit to your Honourable Board, whether, on conſidering all the Circumſtances of this Cauſe, there do not appear good Grounds for a Suit in the Chancery Side of the Court, and how far it is probable that the Conduct of the Defendants might be juſtified, when tried by the Judges on the liberal Principles of Equity. It ſeems probable, at leaſt, that the Defendants would be relieved in the Amount of Damages.

The Delay in procuring Copies of the Papers in this Suit, put it out of my Power to deliver in a Report upon it before my Reſignation of the Office of Commiſſioner of Law Suits. The extraordinary Length of this Addreſs requires an Apology, which I can only hope to find in the Importance of the Cauſe.

I have the Honour to be,
Honourable Sir, and Sirs,
Your moſt obedient and moſt
Humble Servant,
(Signed) Geo. Bogle.

Fort William,
the 10th January 1780.

A true Copy.
Geo. Hodges,
Secy.

PATNA APPENDIX, N° 19.

Tranſlation of a Petition from Muſtees Burkutt Ullah and Muckdoom.

WE are thankful to the Bounty of the Council for the Orders which they have been pleaſed to iſſue reſpecting our Petition, and the Expences of our Families, removed at a Diſtance from us.

At Patna we received an Allowance of Twenty four Rupees; this was inſufficient to ſupport us, but from our Dues on Petwahs and Coballahs, and other public Papers, we were enabled to expend 150 Rupees each, the monthly Charge of ourſelves and Families. Our Houſes being now ſtripped, we are without Table or Cooking Utenſils, Cloaths, or Bedding, and in ſhort, are in want of every Thing, not even ſo much as our Books being left to us. We are alſo much diſtreſſed to defray the Wages and Houſe-rent of the Servants, who have accompanied us here. In this Situation we are further hopeful, from the Bounty of the Council, that they will allot us ſuch Allowances as are adequate to our Expences, and relieve us from the Difficulties which we at preſent labour under on that Account.

Tranſlated.

(Signed) W. Chalmers,
P. Tranſl^r.

Agreed, That the Muſtees be allowed 200 Rupees each per Month, for the Maintenance of themſelves and Families, to be paid partly here, and partly at Patna, as ſhall be ſettled by the Superintendant of the Khalſa Records.

PATNA APPENDIX, N° 20.

Tranſlation of a Petition from Behadre Beg Khan.

SHAH Baz Beg Khan my Uncle, a Native of Kabul, reſided for ſome Time and acquired a Fortune in this Country. Having no Children, he wrote to Allum Beg Khan my Father, at Kabul, deſiring as he himſelf was grown old, and had no Children, that he would ſend me out of the Four Sons which he had, that he might take me as his Son, and give me what he had acquired in this Country, as alſo marry me to the Daughter of his Wife's Siſter, whom his Wife had adopted as her Daughter; entreating, that my Father would, though he left Lacks behind him, come and ſee him; that he was very deſirous to viſit the Place of his Birth, but being a

Stranger here, and having no Perſon to leave as his Repreſentative, he could not undertake the Journey.

Agreeable to what Shah Baz Baig wrote, my Father and I left Kabul and came to him; when he accordingly adopted me, and gave me the Daughter of his Wife's Siſter in Marriage.—He afterwards endeavoured to procure a Sunnud in my Favour for his Ultumgha Lands, and for this Purpoſe, introduced me to the Gentlemen of Patna, and ſent me to Calcutta. It was known by every Body that I was his Nephew and his adopted Son. Afterwards the ſaid Khan made Declaration, that all his Poſſeſſions were become my Property, and wiſhed to make a Will to that Effect, but in the mean while he died from the uſe of Mercury, which he took inwardly and applied outwardly.—On the Third Day after his Death, when it is cuſtomary among the Muſſulmen to hold the firſt Tatchah, and to make public any Will which may have been made by the Deceaſed, Naderah Baigum did not produce any Papers whatever, but Khaujah Zekereah, and Meer Khan her Siſter's Son, upon being queſtioned, reported before all the Relations high and low then aſſembled, for the Obſervance of the Tatchah, that Bahader Khan was left in the room of Shah Baz Baig Khawn, and that the Turban of the Deceaſed ſhould be placed on his Head, after holding the Tatchah of the Fortieth Day.—Some Days after, Naderah Baigum attempted to remove the Effects of the Deceaſed, and forcibly took up his Corpſe from the Tomb where I had depoſited it in a Coffin, according to the Orders of the Deceaſed, with a Promiſe of conveying it afterwards to Kabul, and buried it. I was obliged to remain paſſive, a Number of her Relations being met together, and I a ſingle Perſon without any one to aſſiſt me.—The Baigum having clandeſtinely removed the Eſtate, and turned me out of the Houſe, I was rendered helpleſs; wherefore, not waiting for the Fortieth Tatchah, I preferred a Complaint to the Council, the Magiſtrates of the Soubah; and they, agreeable to Cuſtom and Uſage, referred my Complaint to the Cauzee and Muftees of the Town, with Orders to lock up the Effects, until ſuch Time as the Caſe ſhould be determined, allowing neither Perſon Poſſeſſion; and after inveſtigating the Matter, to report what Portion each Perſon was entitled to, according to Law and the holy Writing.

The Officers of the Law in conſequence took an Inventory of the Effects before Zekereah, Zullufucar Khawn, her Siſter's Son, and others her People, and myſelf; after having put the Effects under Lock, they heard the Claims of both Parties; when the Deeds of Gift and Aikraraum produced by Zekereah, were judged invalid both by Law and from being forged: In fine, agreeable to the Ferrayez or Laws of Diviſion of Property, Three Proportions were adjudged to Allum Baig Khan my Father, whoſe Right of Inheritance was proved by the Declaration of Zekereah, and One Share to Naderah Begum. A Report to this Effect was afterwards made out and laid before the Council.—The Council then ordered a Diviſion agreeable to the Sentence of the Law, which accordingly took Place; the whole Money and Effects, together with the Houſe, having been valued and put into Four Shares by Appraiſers, Zekereah choſe One of the Shares for Naderah Baigum; the Share of Allum Baig was put under my Charge, and Zekereah depoſited the Share of the Baigum under Lock in the Secret Apartment, under Charge of a Naigahban, where it ſtill remains.

Naderah Baigum afterwards, prompted by an evil Diſpoſition and the Inſinuations of her Servants and Dependants, refuſing to take her Share, retained in her Poſſeſſion the Firmauns and Sunnuds of the Ultumghah, with the Coballahs of Houſes, &c. the Hand Seal of the deceaſed Khan; as alſo kept up the Female Slaves of the deceaſed Khan, who were acquainted with Removal of his Eſtate, and would not produce the ſame before the Officers of Juſtice, but acting refractorily, went and took up her Reſidence at the Durgah of Shah Arzan.—She next proceeded to Calcutta, and complaining in the Engliſh Court, procured a Warrant againſt me, and the Cauzee and Muftees.—The Gentlemen of the Adaulut, although I never ſerved the Company, nor had any Connection with their Government, under the Plea of my having put my Seal to a Deed of Security for the Pergunnahs of Amertoo and Kiddore Mahals, dependant on the Nizamut, taxed me with being under Engagements to Government, and ſubjected me to their Law.

They did not aſcertain the Validity or Invalidity of the Hebah or Ackraraum by the Muſſulman Law, nor the Forgery.—The Eſtate is under the Value of a Lack of Rupees, excluſive of the Houſe, as appearing from the Valuation of the Appraiſers, and the Papers of both Parties.—The Gentlemen of the Adaulut have paſſed a Decree for 3 Lacks of Rupees, in Favour of the Baigum.—Allum Baig, my Father, received Poſſeſſion of his Share from me; the whole of which, beſides other Property, belonging to him, and depoſited in the Hands of Merchants, together with the Jewels of his Zunnanah, have been forcibly ſeized on by a Serjeant, although he could have no Buſineſs with the Property of my Father, and he is in nowiſe ſubject to the Court.

The Muftees and myſelf unjuſtly ſuffer cloſe Confinement in a ſingle Room, which is the Place uſed by the Priſoners to make Water, and to dreſs their Victuals in. The Number of Priſoners, and the Noiſe which they occaſion is ſuch, that it is difficult to ſleep.—The Room is locked up at Night, and we are not even allowed to go to the Neceſſary, nor can we get any Food admitted at that Time.—I cannot comprehend what Fault has been committed by myſelf and the Muftees, or in any

Meaſure underſtand the Juſtice of the Gentlemen of the Court, who have proceeded againſt us in this Manner, notwithſtanding the Deciſion paſſed according to Law. The Property of my Father, with the Houſes and Property of the Muſtees, have been ſeized, and ſold at public Auction for the Benefit of the Baigum.

As I came from a foreign Country to yours, at the Deſire of my Uncle, and the Cauſe in queſtion was tried and decided by the Cauzees under the Sanction of the Council, all of whom are Officers of Government; as I did not take Poſſeſſion of any Thing by Force or Violence, and have fallen into this Calamity from a Deciſion of the Officers of your Government, I am hopeful, from your Juſtice and Equity, that you will graciouſly intereſt yourſelves for my Releaſe.

Agreed, That the foregoing Petition be referred to the Advocate General, for his Opinion of the Steps which are proper to be taken for the Relief of the Petitioner; and alſo for that of the Muſtees, in the particular Grievances of which they complain.

Ordered, That this Petition be authenticated, as in the Caſe of that received from the Muſtees.

PATNA APPENDIX, N° 21.

Letter from the Provincial Council of Patna to the Honourable Warren Haſtings, Eſquire, Governor General, &c. in their Revenue Department, Fort William.

Honble. Sir, and Sirs,

WE have been honoured with your Letter of the 13th Ultimo and 13th Inſtant; the former incloſing Copy of a Petition from Muſtees Burkut Ullah and Gullaam Muckdoom, Priſoners in the Calcutta Gaol at the Suit of Naderah Begum, authorizing us to make a reaſonable Allowance to their Families, and directing us to report the Amount to you. The latter encloſing an Extract of a Petition from Syed Mahmud Khan Behadar, requeſting that Pergunnah Tillaura may be annually granted him on a Mocurrery Leaſe, at the eſtabliſhed Jumma of the Year 1184, 1185, and 1186 fuſly; and the Negbut of Sircar Shahabad on the ſame Footing as Ahmud Ally Khan holds that of Sircar Sauran; and deſiring to be furniſhed with our Opinion thereon.

Encloſed we beg Leave to tranſmit you a Liſt of the Families of the abovementioned Muſtees; and to acquaint you that we have fixed the monthly Allowance of One hundred Rupees to each, which appears to us to be only adequate to the Perſons and Numbers which they contain.

We are of Opinion that the Compliance with the Two Requeſts made to you by Syed Mahmud Khan Behadar, will be of Public Utility.

We are, with great Reſpect, &c.

Patna,
(Signed)
26th Auguſt, 1779.
Ewan Law, &c. Council.

Liſt of the Family of Muſtee Burkut Ullah.

1	Wife.
2	Nieces, unmarried.
3	Brothers and Siſters, unmarried.
3	Old Nurſes.
13	Servants and Slave Women.
22	Total.

Beſides his Father and Family, whoſe Property has been entirely ſequeſtered.

Liſt of the Family of Mufty Gullaum Muckdoom.

1	Wife.	
4	Daughters,	Unmarried.
2	Sons, —	
2	Nieces, —	
1	Father in Law.	
4	Nurſes to the Children.	
7	Male and Female Slaves.	
21	Total.	

A true Copy.

Patna,
26th Auguſt, 1779.

(Signed)
L^{t}. Crus^{s}. Laplant,
Secry.

PATNA APPENDIX, Nº 22.

The Advocate General's Report upon the Petition of Behader Beg.

THOUGH I ſhould take every Allegation in this Petition as proved, ſtill I do not ſee how the Board can now afford immediate and effectual Relief to the Petitioner, otherwiſe than by ſatiſfying the Judgment. The only Alleviation indeed that his Sufferings will admit of, is the Hope of a remote Redreſs from England; and even that can have no other Foundation than a Repreſentation from this Government to the Direction, in Terms as ſtrong and affecting as the Caſe will admit of.

That Meaſure, co-operating with other Conſiderations, may, perhaps, produce an Application to the Legiſlature, for ſuch Parliamentary Relief as may extend to all ſimilar Caſes, whether as being of doubtful Juſtice, or evident Compaſſion, throughout the Company's Preſidencies; or in ſome Bill that regards the future Management of theſe Provinces, may occaſion the Inſertion of a Clauſe, for the Relief of Inſolvents here; or finally, one that at leaſt may meet the ſingular Hardſhip of the preſent Caſe, which, to my Mind, furniſhes of itſelf Occaſion abundantly ſufficient for going to Parliament.

As in either of the Two former Events, the Caſe before me may exceed in the Amount of the Sum for which Judgment is given, the probable Limitation of ſuch Act or Clauſe, Application will of courſe be made, that under the peculiar Compaſſion of this Caſe, the Petitioner, and the other Defendants, ſhall be by Name included in it: And here let me add, that from a wiſh to forward any humane Intention of the Board in this Matter, as well as becauſe ſtrong Doubts ſtill hang upon my Mind with reſpect to the Evidence, upon which the Judgment reſts, I make a chearful Offer (beyond what may appear to be my ſtrict Line of Duty) of my beſt Aſſiſtance, in thoſe Parts of this Buſineſs, in which my Situation may enable me to contribute in the ſmalleſt Degree to its Succeſs.

Though the Event of ſuch Application is certainly precarious and remote, there ſtill, however, occur different Modes in which no inconſiderable preſent Relief may reach the Petitioner and his Fellow Sufferers; a Circumſtance that claims ſome Attention, inaſmuch as, beſides the uſual and unavoidable Diſtreſſes of a Priſon, they have long complained, and ſtill I find complain, of cruel and unprecedented Hardſhip which bear no Relation to the Judgment, and are, as they juſtly conceive, in no ſort neceſſary to the Ends of Juſtice.

As it is neither the Spirit of Engliſh Law, nor the Diſpoſition of Engliſh Men, to oppreſs the Unhappy, or give ſuperfluous Rigour even to criminal Juſtice, though in Caſes of the deepeſt and moſt atrocious Guilt, I was diſpoſed to think, when theſe Complaints firſt reached me, that they aroſe on the Part of the Sufferers, from the Novelty of their Situation, or their Ignorance of our Cuſtoms, ~~or might perhaps have been ſomewhat exaggerated by thoſe who conveyed them as they now ſtand~~ in ſome Degree confirmed; however, by the Petition before me, it becomes my Duty to ſuggeſt the Mode to thoſe, who I am confident have the Diſpoſition to remove them.

If after what has paſſed upon former Occaſions, it ſhall be thought that the Board (having previouſly intimated to the Judges, through the Company's Advocates or Attorney, its Intention in favour of the Petitioner) can, conſiſtently with its Dignity, apply for an Order, directed to thoſe who have the immediate Government of the Gaol, that during the long Interval before the Event of the intended Repreſentation Home can be known, the Comfort and Accommodation of theſe wretched Men ſhall be provided for, as far as may be conſiſtent with their ſafe Cuſtody, I cannot admit a Doubt of its being heard with a ready Attention, and chearfully complied with.

If it is apprehended, however, that ſuch Application from Government, publicly and officially made, may be conſidered as an Interference in Matters beyond their Province, and may therefore be reſiſted, ſtill I think, that for the Attainment of an End like this (which being after Judgment, can have no Influence upon the Adminiſtration of Juſtice) Forms may be diſpenſed with, and a private Appeal to the private Feelings of the Judges as Men, promiſes to produce the deſired Effect.

If neither ſhall however be thought adviſeable, or either or both being tried, ſhall fail, and upon Enquiry it ſhall appear that the Petitioner's Complaints are but too well founded, one only other Courſe remains; and I mention it with Reluctance—an Application to the Court, grounded upon full Affidavits of Facts that are now before me, againſt him who has committed, or who knowing has permitted, thoſe Acts of Cruelty and Oppreſſion, for a wanton and unfeeling Abuſe of the Powers of his Office.

Upon the beſt Conſideration I have been able to give this Matter, I am of Opinion then, that for a full and adequate Relief of the Petitioner's Sufferings, the Power of Parliament muſt be reſorted to, and to take from the Calamity of his preſent Situation, ſo as in the Interval to make Life ſupportable, depends upon the Succeſs of an Application of the Kind, and in the Quarter I have mentioned.

Calcutta,
the 15th Sept^r 1779.

(Signed) John Day,
Advocate General.

Mr. Chalmers, the Perſian Tranſlator of the Khalſa, attending the Board, is deſired to inform them, in what State he found the Priſoners, Behader Beg, &c. now confined in the Gaol, in what Sort of Apartment, and, in general, what Accommodations they had?

Anſ. When I went firſt to ſee the Muftees, they were confined in a very low and damp Room, which appeared to me then, and from what I have ſeen ſince of the other Apartments, to be the moſt indifferent one in the Gaol; it ſeemed to be about 20 Feet long, and about 13 or 14 Feet wide; and was the only Accommodation which they appeared to have. There were Four Perſons in the Room, and ſeveral Servants.—Behader Beg, and the Muftees, are now removed to the South Eaſt Room in the Upper Story, which is the moſt decent Apartment of any I ſaw in the Gaol. They told me that they were removed there by Order of Sir John D'Oyly, who came to the Gaol about Eight Days after I had firſt ſeen them.

Ordered, That the Secretary do inform the Advocate General, that the Board accept the Offer which he has been pleaſed to make them of his Aſſiſtance, in ſtating the Hardſhips ſuſtained by Behader Beg and the Muftees, now in Priſon on the Suit of Nadara Begum; and the Inconveniencies to which the Inhabitants of this Country are generally ſubject from the legal and neceſſary Exerciſe of the Powers of the Supreme Court in all ſimilar Caſes, for the Information of the Honourable the Court of Directors, and for the Purpoſe of enabling them to apply for ſuch conſtitutional Relief as they ſhall judge requiſite.

DACCA APPENDIX,

No 1.

Dacca, the 7th July 1777.

At a Provincial Council of Revenue;

PRESENT,

John Hogarth, Eſq. Acting Chief, and
Mr. William Hollond.

THE Phouſdar Murza Mazoom lays before the Board, a Note he has received from Mr. Peat.

To Murza Mazoom, Phouſdar.

Application is made to me, on Behalf of Mr. Ford, an European, now confined in your Cuſtody, for Relief againſt the Injury he labours under, by your detaining him in your Cuſtody; in conſequence of which Application, I am to inform you, that unleſs you immediately releaſe him, or give me ſufficient Reaſons for your confining him, I ſhall apply to the Supreme Court for Redreſs.

I am, &c.
(Signed) S. Peat,
Attorney at Law.

Agreed, we tranſmit a Copy of it to the Honourable Governor General and Council, with the following Letter:

To the Honble Warren Haſtings, Eſq. Governor General, &c. at Fort William.

Honble Sir, and Sirs,

We beg Leave to tranſmit you herewith, Copy of a Letter written by Mr. Peat to Murza Mazoom the Phouſdar, who, in conſequence, is intimidated from acting in his Office, and, in this Inſtance, is apprehenſive that a Warrant may be iſſued againſt him, it being reported that Mr. Ford, who is a Taylor, has made Application to the Court through Mr. Peat.

The Occaſion of Mr. Ford's Impriſonment was as follows: He had confined and flogged a black Man moſt cruelly, of which he made a Complaint to us; as the State of his Back fully atteſted the Truth of the Complaint, we ſent him to Murza Mazoom, recommending it to him to take Notice of this Act of Violence.—Murza Mazoom, therefore, ſent Peons to ſeize Mr. Ford; but this being ineffectual, he ſent Sepoys, who having executed their Commiſſion, Mr. Ford was impriſoned, but releaſed the next Day by Mr. Peat. As Murza Mazoom acts in the Character of a Judge in Criminal Cauſes, on the Part of the Country Government, we preſume he is in nowiſe amenable to the Supreme Court; and therefore requeſt to be favoured with your Inſtructions regarding the Attention he is to pay to ſuch Warrants, and his future Conduct on ſimilar Occaſions. We ſhall only obſerve here, that if Mr. Peat is ſuffered to interfere with the Authority of the Phouſdarry, it will be impoſſible to preſerve the Peace and Quiet of this City, and particularly to protect the Inhabitants againſt the Violence of low Europeans.

DACCA APPENDIX, N° 2.

Dacca, the 21ſt of July 1777.

At a Provincial Council of Revenue;

PRESENT,

John Hogarth, Eſquire, Acting Chief, and
Mr. Wm Hollond.

READ the following Letter from the Governor General and Council, dated the 14th Inſtant:

To Mr. Charles William Boughton Rouſe, Chief, &c. Council.

Gentlemen,

We have received your Letter of the 7th Inſtant, encloſing a Copy of a Note from Mr. Peat, addreſſed to Murza Mazoom, the Phouſdar of the Dacca Diviſion.

We are ſorry that you ſhould have thought it neceſſary to apply to us for Inſtructions in a Caſe, which appears to us to be too ſelf-evident to have required any: All that we can now ſay upon this Subject is, that the Deroga of the Phouſdarry Adaulut has been guilty of a Breach of Duty, in releaſing a Priſoner of the Adaulut, on the aſſumed Authority of an Individual; but as we ſuppoſe that he muſt have had ſome Grounds for believing Mr. Peat to poſſeſs extraordinary Powers, and that he acted under ſuch an Impreſſion, we deſire that you will undeceive him, and inform him that Mr. Peat, while he remains at Dacca, reſides there on the ſame Footing only with every other Inhabitant.

The Deroga having, in this Inſtance, withheld from the Complainant that Juſtice which his Office made it his Duty to have afforded him, we recommend it to the Plaintiff to repair to Calcutta to prefer his Complaint to One of His Majeſty's Juſtices of the Peace; and as we think it an Act of Juſtice, on ſuch an Occaſion, that his Expences ſhould be defrayed by Government, we authorize you to advance him a Sum for that Purpoſe.

We are, &c.

(Signed) Wm Haſtings, &c.

Fort William, July 14th 1777.

The Acting Chief informs the Board, that the Perſon who was ill treated by Mr. Ford the Taylor is willing to go down to Calcutta.

Ordered therefore, that the Dewan prepare a Boat for him, and pay his Charges; and that the Secretary write the following Letter to Mr. Sumner to accompany him.

To

DACCA APPENDIX, N° 2.

To Mr. Richard Sumner, Secretary to the Supreme Council of Revenue at Calcutta.

Sir,

The Bearer is the Perſon who was flogged by Mr. Ford, and who could not obtain Redreſs in the Phouſdarry by Reaſon of the Interference of Mr. Peat. The Governor and Council therefore in their Letter of the 14th Inſtant, recommended that he ſhould repair to Calcutta, in order that he might prefer his Complaint to One of His Majeſty's Juſtices of the Peace. As his Expences are to be defrayed by Government, I am ordered by the Provincial Council to ſend him to you, that you may direct him in the Mode of Proceeding, in this Buſineſs.

I am, &c.

Agreed, we reply to the Governor General and Council's Letter of the 14th Inſtant.

DACCA APPENDIX, N° 3.

To the Honourable Warren Haſtings, Eſq. Governor General and Council, at Fort William.

Honourable Sir, and Sirs,

WE have been duly honoured with your Letter of the 14th Inſtant, and agreeably to your Recommendation have ſent the Man who was ill treated by Mr. Ford, to Calcutta, with a Letter to your Secretary.

We applied to you on the Subject of a Note written by Mr. Peat to Mirza Mohſin, as a Satiſfaction to him; for notwithſtanding we have repeatedly explained to him as well as to the other Officers of Government, the Nature of Mr. Peat's Occupation, it has been without Effect; they conceived him to be inveſted with Powers which ſuperſede ours, and that therefore we leſſen him in our Repreſentations. Indeed, upon his Arrival he received from the Natives equal Honours with the Chief; which is an evident Proof that they are impreſſed with an Idea of his poſſeſſing an extraordinary Authority.

Neither is this Impreſſion likely to decline, it being kept up with great Art in the Minds of the People, by his Banyan, by the Reports he ſpreads, &c. the Pomp of his Palanquin and Retinue, as well as by the Encouragement he gives to all Perſons to apply to his Maſter, through him; by buoying them up with the Hopes of recovering great Damages. Add to this the Number of Notes Mr. Peat diſperſes through the City and Province, a general Alarm has been ſpread among all the Inhabitants; who conſider theſe Notes as Orders to pay the Sum demanded by his Client, not to Anſwer to the Demand. Further, as he officiates as Deputy Sheriff, it affords him an Opportunity of confining ſuch Perſons as are apprehended by Warrants from the Court iſſued at his Application, which confirms the Inhabitants in their Opinion of his acting in all Caſes by public Appointment.

We have the Honour to be, with Reſpect,
Honourable Sir, and Sirs,
(Signed) J. Hogarth,
W^m Hollond.

Dacca,
the 21ſt July, 1777.

Orders thereon.

Ordered, That the Company's Attorney do attend the Complainant, and aſſiſt him in applying for Redreſs to the acting Magiſtrates.

Mr. Francis.

I think it will be a proper Mark of Reſpect to Mr. Juſtice Hyde, to communicate a Copy of this Letter from the Dacca Council to him; becauſe, as it is well known that Mr. Peat did belong to his Family, it is poſſible that the Acts of Miſconduct with which Mr. Peat is charged, may be ſuppoſed to be countenanced by Mr. Hyde. It muſt be left to his own Judgment to determine whether it may be proper or neceſſary for him to make any Enquiry into them. I am the more deſirous that this ſhould be done, becauſe it will afford Mr. Peat an Opportunity of juſtifying himſelf, if he thinks proper, by a Repreſentation to the Board.

Mr. Barwell.

I do not aſſent to the Reference.—I ſee no End it can poſſibly anſwer. If Mr. Peat, or any Perſon, is guilty of Miſconduct, the Powers of this Government, as defined by the Act of Parliament of the 13th of His preſent Majeſty, ſhould regulate the Proceedings of the Board. Mr. Hyde has no Authority whatever to interfere beyond the Power he derives from the Charter of Juſtice; and I am far from thinking the Reference a Mark of Reſpect to Mr. Hyde.

Governor General.

I agree to the Reference.

Reſolution.

Reſolved, agreeably to Mr. Francis's Motion; and agreed, that the following Letter be written to Mr. Juſtice Hyde.

To Mr. Juſtice Hyde.

Sir,

Having received Two Letters from our Council of Revenue at Dacca, in which ſome Acts of Miſconduct are imputed to Mr. Peat and his principal Servant, we have deemed it a Mark of perſonal Reſpect to you, as well as of Juſtice to Mr. Peat, to communicate Copies of theſe Letters to you. We leave it to your Judgment to determine, whether it may be proper to make any Enquiry into the Subject of them.

We are, &c.

Fort William,
19th September 1777.

DACCA APPENDIX, N° 4.

Letter from Mr. Juſtice Hyde.

To the Honourable Warren Haſtings, Governor General, and the Gentlemen of the Council,
Fort William.

October 27th, 1777.

Honourable Sir, and Sirs,

I HAVE the Honour of your Letter, dated September 19th, 1777; and am very happy with any Mark of Attention you are pleaſed to ſhew to me.

You are pleaſed to tranſmit to me, Copies of Two Letters, written to you by Mr. Hogarth and Mr. Hollond, Two of the Members of the Provincial Council at Dacca; the Firſt dated July 7th, 1777, and the Second dated 21ſt July 1777.

The

DACCA APPENDIX, Nº 4.

The Gentleman who is the principal Subject of thoſe Letters, is Mr. Peat, who is an Attorney in the Supreme Court of Judicature; and has alſo lately been appointed a Maſter Extraordinary in that Court, for the Purpoſe of taking Affidavits.

He is alſo Agent for the Sheriff in the Diſtrict of Dacca.

By the Act of Parliament and the Charter eſtabliſhing this Court, great Numbers of Perſons, in every Part of the Provinces, are ſubject to the Juriſdiction of His Majeſty's Court; and all Perſons are entitled to ſue in it. The Propriety, therefore, and Utility, of having, in ſo populous a City as Dacca, an Attorney to whom thoſe who were either Plaintiffs or Defendants in Suits in this Court, might, if they thought fit, apply for Aſſiſtance in their Suits, and alſo the Propriety of having an Officer of the Court authorized to take Affidavits in ſuch a Place, is to me very apparent; for compelling Men, to the great Expence and Trouble of a Journey to Calcutta, to inſtitute their Suits, is putting an Obſtruction in the Way of that Juſtice, which it was the gracious Intention of His Majeſty's Charter to have diſpenſed to the Inhabitants of theſe Provinces; to all of them as Plaintiffs; and towards thoſe deſcribed in the Act of Parliament, and the Charter, as Defendants.

The great Expence of executing the Proceſs of the Court, at any conſiderable Diſtance, has induced the Court to recommend many Times to the Sheriff, to procure Agents at all the different Factories, which would conſiderably leſſen that Expence, and is a Benefit to all Suitors; and it is alſo a conſiderable Benefit to the Defendants, who in Places where there is no proper Agent for the Sheriff, are almoſt always obliged to be brought to Calcutta, to give Bail, becauſe the Sheriff cannot truſt his Bailiffs with the Charge of judging of the Sufficiency of the Bail. But this Truſt he does repoſe in Mr. Peat.

I preſume the Reaſon of your communicating theſe Letters to me, is, that I may require Mr. Peat to give an Account to me, in Anſwer to what you are pleaſed to call "Acts of Miſconduct;" but I confeſs, if I had any Authority, or were inclined to require an Account from him, I ſhould be at a Loſs to know what Miſconduct was charged on him in theſe Letters.

Mr. Peat is accountable to this Court, and only to the Court, for his Conduct in the Two Offices he now holds in the Court, of an Attorney, and of Maſter Extraordinary; and alſo for all he does, when he acts as Agent for the Sheriff. He formerly held another Office in the Court, as a Clerk of the Court Attendant on me; and I imagine it is this Relation in which he ſtood to me, that induced you to write to me on the Subject of thoſe Letters; but that Office he has not held ſince the Month of June laſt. He is not, therefore, in any Manner accountable to me in particular for his Conduct ſince that Time; but he is amenable, as all His Majeſty's Subjects are, and the Officers of his Court in particular, to anſwer in that Court to any Charge properly exhibited againſt him.

I am,
Honourable Sir, and Sirs, &c.
(Signed) John Hyde.

DACCA APPENDIX, Nº 5.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council, Fort William.

Honble Sir, and Gentlemen,

THE Extenſion of the Authority of the Supreme Court of Judicature, daily furniſhes new Inſtances of Interruption to the current Buſineſs of the Revenue. Were its Operations merely confined to thoſe Perſons who form a Connection with the Company, or any Britiſh Subject, fall clearly within the Deſcription of the Act of Parliament, we could with leſs Propriety remonſtrate, but we might provide againſt known Inconveniencies. When it is exerciſed over Perſons no way connected with Britiſh Subjects, and over Zemindars reſiding upon theſe Lands, who cannot, by the moſt diſtant Implication, be conſidered as Servants of the Company, there is ſurely Reaſon to complain, the Law has not the Effect intended by the Legiſlature. We were inclined to Hope, that as an Attorney is ſuppoſed to be learned in the Law, and converſant in the Practice of the Court he belongs to, much Convenience might have ariſen to the People of the Province, from the Reſidence of a Gentleman of that Profeſſion at Dacca; that Individuals might have been inſtructed in what Caſes, and againſt what Perſons their Redreſs would regularly lie in the Supreme Court, and that thoſe whom the Law has not made amenable, might not be expoſed to Trouble, nor the Government be obſtructed in the Collection of its Revenue. Sorry we are to ſay, that we have yet experienced no ſuch Effects. It is in vain for us to make public the Clauſes of the Act of Parliament, or to explain the Orders you have been pleaſed to ſend us, in conſequence of our former References, when a Zemindar, who has been adviſed to reply to the Lawyer's Note, that he comes not within the Juriſdiction of the Court, is actually a few Days afterwards committed to Priſon by a Warrant. Thus no Man can ſay who is and who is not within the Juriſdiction; and ſurely nothing favourable can be expected from a Law, or its Application in Practice, which is deficient in the primary Excellence of all Laws, Certainty.

As Circumſtances ariſe, it is our Duty to communicate them to you, that you may purſue ſuch Meaſures as you ſhall judge expedient; for this Purpoſe we encloſe the following Papers:

Petition from the Vakeel of the Zemindar of Ootin Savagepore, delivered whilſt his Maſter was in Confinement at Dacca, upon a Warrant.

Petition from Imaum ul Deen, Zemindar of Nazirpore, who is now in Confinement.

Petition from Lolly Bagum, Daughter-in-Law of Sir Frauz Cawn, formerly Nabob of Bengal.

Two Notes from the Attorney to Lolly Bagum.

One to Imaum ul Deen, Zemindar of Nazirpore.

One Dº, addreſſed to Mooty Ullah and Punnah Ullah, joint Zemindars of Jallapore till Punah Ulla's Death, which happened about Ten Years ago.

One to Nuring Chowdry, Zemindar of Pergunnah Gopaulpore.

Theſe Papers have fallen into our Hands accidentally. Had we taken Pains to enquire and ſearch, the Liſt might with Eaſe have been greatly enlarged. We have not an Idea, that any one of the Perſons abovementioned can be found liable to the Court's Juriſdiction; but that Point is not to be aſcertained without a tedious and expenſive Proceſs at Calcutta; and we can ſay, from private Knowledge, thoſe Proceſſes may take up a Twelvemonth, and are not conducted without an enormous Expence. In the mean Time, both the Government and the Individual ſuffer. For Inſtance, the Zemindar of Nazirpore, who pays an Annual Revenue of above 40,000 Rupees, is ſeized by a Warrant, in order to be carried away to Calcutta, at the Inſtant he was proceeding to his Lands, to take Meaſures for diſcharging the Revenue for which he has bound himſelf: Poſſibly he may be abſent many Months. The Collections will be ill conducted during the Maſter's abſence. The Revenues of the Government fall ſhort, and at laſt, his Pergunnah is ſold to make good the Deficiency. It will be a poor Compenſation to the Zemindar, in the End, to be informed, that he was unjuſtly arreſted. As to an Action for Damages, or a Proſecution for Perjury, ſubſtantial Proof is difficult, and the Iſſue extremely dubious.

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There is one other Point of View, in which we would wiſh to Place this Subject; and the ultimate Proſpect it exhibits is truly alarming. It is notorious the Zemindars have at all Times borrowed Money from Merchants. As the Traffic was deſperate, the Lender took an Intereſt and Premium proportioned to his Riſk, and that moſt frequently deducted from the firſt Advance.—The Merchant nominally ſuffered many Loſſes, but upon the Whole his Buſineſs was beneficial: Now, if the Zemindars ſhould be rendered liable to the Juriſdiction of the Supreme Court; we doubt not but thoſe Claims would be received to an Amount exceeding One Year's Revenue, and might occaſion a ſudden Transfer of almoſt all the Landed Property in Bengal; a Concuſſion too violent for any State to bear.

Under the frequent unſettled State of Juriſdiction, we would not venture to aſſure you of our Hopes to realize the Revenue even upon the moſt moderate Valuation: And all Attempts on our Part to enforce the Authority of the Provincial Government, muſt be vain, unleſs ſome more ſummary and efficacious Method be purſued to aſcertain what Perſons do really fall within the Deſcription of the late Act of Parliament, to afford Redreſs to thoſe whom, either wilful Perjury in the Complainant, or an ambiguous wording of an Affidavit taken in a Language which the Party himſelf underſtands not, may have expoſed to a vexatious and expenſive Proſecution in His Majeſty's Court.

We have the Honour to be, with great Reſpect,
Honourable Sir, &c.

Dacca,
18th Sept. 1777.

(Signed) { C. Wm Boughton Rouſe,
John Shakeſpear,
William Hollond.

(Encloſure.)

Tranſlation of a Petition from the Vakeel of Loll Roy, Zemindar of Ootuſavagepore.

Your Petitioner Anunduam, Vakeel of Loll Ram, the Chowdry of the Pergunnah Ootuſavagepore, repreſents, that Bhunges Chowdry, Partner of his Conſtituent, having falſely charged him with Plunder and Devaſtation, in the Cutcherry of the Supreme Court of Mr. Peat, has had your Petitioner's Conſtituent, together with his Gomaſtah, arreſted and confined in the Gaol.—Your Petitioner's Conſtituent has never been employed by the Company, or in any Engliſh Service. He is hopeful for Juſtice.

(Signed) Anunduram, Vakeel.

(A true Tranſlate.)
(Signed) Willam Cator,
Perſian Tranſlator.

(Encloſure.)

The Arzee of Sied Emaum Ooddun Mahomed, Chowdry of Tuppoh Nazirpore.

Churr Tingta Collah, under Tuppoh Nazirpore, formed by the Inundation of the River, is in my Poſſeſſion, but is conteſted with me by Mahmud Redauk, Talookdar of Pergunnah Bungroſlah, and he having complained in the Cutcherry, an Aumeen, at one mutual Application, was taken into the Mofuſſil, but he not attending, the Aumeen abſconded.—After this Ramſunker Doſs, the Brother of Rame Cunt Doſs, Gomaſtah to Mr. Lear, interfering in the Diſpute, complained againſt me to Mr. Peat, took out a Warrant, and confined me; Doſs abovementioned, has given in Writing that I have taken from him Goods and Money to the Amount of Rupees 1752. 8; which is falſe, for I have nothing to do with Doſs aforeſaid; neither am I indebted to any of the Engliſh. Doſs abovenamed is in the City; let him be ſummoned to the Preſence, and Juſtice rendered.

(Signed) Siued Emaum Ooddun Mahmed.

A true Tranſlate.
(Signed) William Cator,
Perſn Transr.

(Encloſure.)

The Arzee of Carlee Begum.

Particulars relating to a Buzel, appertaining to the Nuſjud of Kai Tullub Khawn, deceaſed, is as follows:

Kai Tullub Khawn was, during his Life-time, Soubah of the Kingdoms of Bengal, Oriſſa, Behar;

at that Time he came to the City of Jehaungurnagur, and this Musjud, [illegible] the Name of Kar Tullub Cawn, he built, and alſo eſtabliſhed a Fiſh Buzar [illegible] to defray the Charges of the Musjud. Kar Tullub Khawn afterwards [illegible] Soubah of this City, ſince which he received from the King the Title of Mahomed [illegible] ſome Buſineſs he left this Place, and went and gave his Name to the City of Moorſhedabad, which he alſo formed, and there alſo built a Fort. Some Time afterwards he received the Title of Jaffier Khawn; and he there alſo erected Musjuds, and allotted ſeveral Jaghires for their Support. By the Will of God he died. After his Death, his Son in Law, named Shugar Nuddeen Mahomed Khawn Shujah ul Doulah (who is my Grandfather) ſucceeded to the Soubahdarry of his Father in Law. Some Time after he alſo died, by which the Soubahdarry was wrote, in the Name of my Father Suffurraur Khawn Allavud Dowlah. Afterwards a Servant of my Father, named Ally Viedu Khawn Mahabut Jung, aſſaſſinated him, by which Means he became himſelf Subadah. To this preſent Time no Soubah or Sovereign have ever attempted to take from the Musjuds at Moorſhedabad, &c. Places, the Jaghires that were allotted for their Support, but left them to remain as formerly. Now the Fiſh Buzar in this City, which was allotted for the Support of the above mentioned Musjud, a Kafuſſel Ally out of Spite has deſtroyed it, and taken the Fiſhermen away to a new Buzar, adjoining to the above, which he has raiſed; ſince which, in the Month of Bhaudoor, of the Bengal Year 1183, the Fiſhermen of their own free Will came, and rebuilt their Shops as formerly in the Buzar belonging to this Musjud; upon which Aka aforeſaid ſent Peons to take the Fiſhermen away—but upon my giving in a Durkhauſt to the Council, a Regaban was ſent to the Buzar, and prevented his Peons from taking the Fiſhermen away. Now the Son of Aga aforeſaid has complained in the Engliſh Court of Juſtice, and Mr. Peat has ſent me, at the Complaint of Two Ryots, Two Chitts under his Signature, and I anſwered them in the following Manner:—I am not a Servant of the Engliſh, and I will anſwer to no Complaint in the Engliſh Courts. You, Sir, who are the Ruler of the Country, ſend a Hircarrah from the Preſence, that the Gentlemen above named may not any Way diſtreſs or cauſe any Loſs Time. I am a Widow, and, beſides the Ruler of the Country, have no Protector.

(Signed)

Laudly Begum.

A true Tranſlate.

(Signed) Wm Cator,

Perſn. Tranſr.

Lertee Begum,

I am inſtructed by Hablare Ryott to inform you, that if you do not make him Satisfaction for the Force uſed againſt him, by your Orders, and permit him to return to his former Place in the Buzar of Mamood Hyſſen Soobahdar, an Action will be commenced againſt you.

(Signed) S. Peat,

July 11th, 1777. Atty at Law.

Lorlee Begum,

I am directed by Ruſſeah to inform you, if you do not make him Satisfaction for the Force uſed to make him leave his former Place, or Stall, in the Buzar, and permit him to return back, if he chuſes, to the Buzar of Moomud Huſſeen Soobadar, an Action will be commenced againſt you.

(Signed) S. Peat,

July 17th, 1777. Atty at Law.

Nerring Chowdry,

I am inſtructed by Bindaburne and Bickerryday, to inform you, that unleſs you make them Satisfaction for the aſſaulting, beating, and impriſoning them, an Action will be commenced againſt you in the Supreme Court.

(Signed) St Peat,

Auguſt 2d 1777. Atty at Law.

Meerimondee, Beerom Sardan, Peer Cawn,

I am inſtructed by Ramſunker Doſs to demand of you the Payment of Ars. 1,752. 8. which were taken by Force by you; and alſo that you make Satisfaction to them for the Force and Injury, and the Impriſonment of Meer Bengallee and Boby Doopee, or you will be ſued in the Supreme Court for ſo doing.

(Signed) St Peat,

June 24th 1777. Atty at Law.

Mootah

Moocah Ulla and Paunah Ulla,

I am inſtructed by Gollap Podah to demand of you Ars. 8,198. due on ſeveral Bengal Bonds. In caſe of Non-payment, I am directed to proceed in commencing an Action againſt you in the Supreme Court.

(Signed) Sl Peat,
Attʸ at Law.

Auguſt 1ſt 1777.

DACCA APPENDIX, No 6.

Fort William, the 26th of September 1777.

At a Conſultation;

PRESENT,

The Honble Warren Haſtings, Governor General, Preſident.
Richard Barwell, } Eſqrs.
Philip Francis, }

ON the 23d Inſtant, in the Evening, the following Letter from the Provincial Council of Dacca, its Encloſures, and the Letter from the Sheriff, were received by the Secretary, accompanied with the Letter hereafter entered, from the Governor General.

Dacca Letter. L. R. No 542.

To the Honble Warren Haſtings, Eſq; Governor General, &c. and Council.

Honble Sir, and Gentlemen,

We are extremely ſorry to adviſe you, that a Fray has happened this Day, between Mr. Peat and his Attendants and the Officers of the Phouſdarry.—We are not yet ſufficiently informed of the Particulars, as to be able to give your Honourable Board an exact Detail; but by the Copy of Mr. Peat's Letter to the Chief, encloſed, you will obſerve a Perſon has been ſhot—We learn that Two or Three others were wounded, but not dangerouſly.

It has been reported to us, that the Perſon ſhot by Mr. Peat is the Brother-in-Law of the Provincial Phouſdar, and by the laſt Accounts he was ſenſeleſs: The Ball having paſſed through his Bowels, it is apprehended he cannot ſurvive long.

Our Chief has ſtationed a Party of Sepoys over Mr. Peat's Houſe, as well to guard him from Moleſtation, as to prevent his Eſcape in caſe the Man ſhould die; and a Reinforcement of the Militia has been ſent to the Phouſdar to keep the Peace of the City.

The Provincial Phouſdar wrote a Letter to the Chief upon the firſt Attack being made, but before any Anſwer could be ſent, the Fray happened, and Mr. Peat's Letter was brought to the Chief.

Jaggernaut is the public Duan of the Provincial Phouſdar, and the Fray is ſaid to have happened in the Phouſdarry Court.

We encloſe alſo a Copy of a Letter Mr. Peat has written to Lieutenant Cowe, the Commandant of the Militia Sepoys, upon the Subject of the Demand made in this Letter, and that to the Chief. We ſhall remark only, that ſhould Mr. Peat produce or ſend any of His Majeſty's Writs to us, formally requiring our Aſſiſtance, we certainly ſhall conſider ourſelves bound to comply.

It has been impoſſible to prepare a Tranſlate of the Phouſdar's Letter to accompany this.

We have the Honour to be
Honourable Sir, and Gentlemen, &c.

Dacca, Saturday Night,
September 20th 1777.

(Signed) C. W. B. Rouſe,
J. Hogarth,
J. Shakeſpear,
Wm. Hollond.

(Enclosure.) Dacca, 20th September 1777.

Sir,

An Arreſt was made this Morning, under my Directions as Deputy Sheriff, on Jaggernaut Dewan. Reſiſtance was made, and the Man is ſtill not taken. I was attacked by a Man with a Sword and a Target, and in my Defence ſhot the Man. If you pleaſe to ſend me Sepoys to guard me or take me, if you think proper, into your Cuſtody I ſhall be glad: In the mean Time, I requeſt you will ſend Sepoys to take the Man who is arreſted, into Cuſtody.

I am,
Sir, &c.
(Signed) S. Peat.

To
C. W. B. Rouſe, Eſquire.

A true Copy.

(Signed) Hy L. Secy.

To Captain Cowe. September 20th 1777.

Sir,

A Man being this Morning arreſted by my Orders on the Proceſs of the Court he has made great Reſiſtance, and aſſaulted me with a drawn Sword and Target, on which, in my own Defence, I ſhot him. The Man is not yet taken, though arreſted. I therefore, as Deputy Sheriff, requeſt you to ſend proper Aſſiſtance to ſecure him; as your now knowing of the Reſcue, will make you a Party if you do not aſſiſt. In the mean Time I alſo requeſt you will ſend Sepoys to guard me if you think proper.

I am, Sir, &c.
(Signed) Sl. Peat.

A true Copy.

(Signed) Hy Lodge, Secretary.

Sheriff's Letter. L. R. N° 543.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council, Fort William.

Honourable Sir, and Sirs,

Having learnt from Dacca that Reſiſtance has been made againſt the Execution of a Warrant of Arreſt, duly iſſued from the Sheriff's Office againſt Jaggernaut Dewan, and that the ſaid Jaggernaut Dewan has, with an armed Force, been reſcued from the Officers of the Sheriff; I deſire that Aſſiſtance to which, by His Majeſty's Charter, I am entitled, and hope you will give immediate Orders accordingly, and diſpatch them as ſoon as poſſible.

It being ſaid likewiſe, that the Sheriff's Deputy, Mr. Peat, has been threatened with an armed Force being ſent to attack him in his Houſe; I therefore further deſire the Protection of the Company's Military Forces for Mr. Peat, againſt any Force that may be uſed towards him.

I am, with Reſpect,
Honourable Sir, and Sirs, &c.
(Signed) Wm Wodſworth,
Sheriff.

Calcutta,
23 September 1777.

Governor General's Letter to the Secretary.

To Richard Sumner, Eſquire.

Sir,

I deſire that you will immediately ſend the accompanying Letters in Circulation, for the Information of the other Members of the Board; and as it will be neceſſary to iſſue immediate Orders to Dacca concerning the Subjects of thoſe Letters, I ſubmit the following Propoſitions to their Conſideration; viz.

1ſt. That Mr. Peat, and all the Perſons concerned in the late Fray, be, by the Chief and Council of Dacca, ſent in Cuſtody to the Preſidency, that they may be examined before the acting Juſtice of the Peace, or by the Judges collectively if it ſhall be neceſſary, and that the Witneſſes to the Fray be ſent down at the ſame Time.

2d. That the Chief and Council of Dacca be directed to ſee, that the Warrant be duly executed on Jaggernaut Dewan.

3d. That if Jaggernaut was a Party in the Fray, or is charged with being a Party in it, he be ſent likewiſe in Cuſtody to the Preſidency, to be examined by the acting Magiſtrate.

4th. That the Chief and Council be directed to take the Depoſitions of all the Witneſſes, and tranſmit them to the Board.

5th. That a Letter be written in Anſwer to the Sheriff, informing him, that he ſhall have all the Aſſiſtance from the Chief and Council of Dacca, which may be required for the due Execution of the Warrant upon Jaggernaut Dewan.

I am, Sir, &c.

23d September. (Signed) Warren Haſtings.

The ſame was accordingly circulated on the 24th; and in conſequence the following Motion was annexed to it by Mr. Francis.

24 September.

Mr. Francis.

As the Man wounded by Mr. Peat in his own Defence, is not reported to be dead, I have a Doubt of the Legality of the firſt Propoſition made by the Governor; to the reſt I ſee no Objection.—But I recommend, that no Orders whatever be given in this Caſe, without the Advice and Approbation of the Company's ſtanding Counſel.

(Signed) P. Francis.

Company's Counſel called, and his Opinion required.

The Company's Counſel being accordingly ſummoned to attend the Board, the foregoing Papers were ſubmitted to him, with the Propoſitions of the Governor General and Mr. Francis, and his Opinion deſired on the Expediency of the Meaſures propoſed. Mr. Newman, the Company's Counſel, delivered his Opinion thereon, as follows:

Having peruſed the ſeveral Papers tranſmitted from Dacca, with the Propoſals of the Governor General and Council, for the Steps to be taken thereupon, I approve of the Whole, except the compelling Mr. Peat now from Dacca to the Preſidency, without a Warrant from the Juſtice, unleſs the Man ſhot is ſince dead, when I would adviſe it to be immediately done that he may be delivered over to the Civil Magiſtrate; but as all Perſons preſent when a Felony is committed, *or dangerous wound given*, are bound to *apprehend* the Offender, ſo I ſhould think it proper that a Guard ſhould be put over Mr. Peat to prevent any Eſcape, and ſecure his Perſon in caſe a Death enſues.—In which I think there neither can be a Riſque of Cenſure, or any Impropriety of Conduct whatſoever.

23d. September 77. (Signed) Chas. Newman.

Letter in Conſequence to Dacca. L. S. No 238.

It was then agreed to write the following Letter to the Provincial Council of Dacca.

To Mr. C. W. B. Rouſe, Chief, &c. Provincial Council of Revenue, at Dacca.

Gentlemen,

Par. 1ſt. We have received your Letter of the 20th Inſtant, with the Papers accompanying it.

Par. 2. We very much approve of the Steps you have taken in this Affair.—We direct, that you cauſe the Warrant to be duly executed on Jaggernaut Dewan, offering the Sheriff's Officer all the Aſſiſtance which may be required for that Purpoſe; that the Party of Sepoys which you have ſtationed over Mr. Peat's Houſe, be continued there for the Purpoſes mentioned in your Letter, for ſo long a Time as the wounded Man ſhall be in Danger from the Wounds which he has received.—That in Caſe of the Death of the wounded Man, you cauſe Mr. Peat to be ſent under a Guard to the Preſidency, together with all the Perſons concerned in the late Fray, that on their Arrival here, they may be carried before a proper Magiſtrate, in order to be bound over to take their Trial.—That you make Enquiry concerning the Perſons who were preſent when this Affair happened; that you call them before you or before any Individual Member of your Board, and take their Depoſitions in Writing, which you will tranſmit to us and ſend the ſame Perſons as Witneſſes under a proper Cuſtody to the Preſidency, at the ſame Time, with the Parties immediately concerned; that you make particular Enquiry whether Jaggernaut was a Party or any way concerned in the Fray.—That in ſuch Caſe, or if he ſhall be charged with having been a Party in it, he be ſent likewiſe under a Guard to the Preſidency, to be carried before the proper Magiſtrate.

Fort William,
24 Sept. 1777.

We are, &c.

Anſwer to the Sheriff. L. S. N° 239.

The Secretary was directed to reply to the Sheriff as follows:

To Mr. Wodſworth, Sheriff.

Sir,

I am directed by the Honourable Governor General and Council, to acknowledge their Receipt of your Letter of Yeſterdays Date; and to acquaint you, they have given Directions to the Chief and Council of Dacca, to afford your Officer all the Aſſiſtance he may require in the Execution of the Warrant upon Jaggernaut Dewan.

Fort William,
24th Septr. 1777.

We are, &c.

DACCA APPENDIX, N° 7.

Extract Conſultations of the Governor General and Council, September 30, 1777.

To the Honble Warren Haſtings, Eſq; Governor General and Council, Fort William.

Honble Sir, and Gentlemen.

IN addition to our Addreſs of laſt Night, we now encloſe you Tranſlate of a Letter therein mentioned, from the Provincial Phouſdar Syed Allee Cawn, which you will obſerve was written before his Houſe had been forced.

We alſo ſend you Copy of a Letter from Mr. Reid, the Aſſiſtant Surgeon, which will ſhew you what little Hope there is of the Recovery of the Perſon who received the Shot from Mr. Peat.

No further Particulars have yet come to our Knowledge, except by vague and public Report; but Syed Allee Cawn having intimated, that he purpoſes publicly to attend our Board when it ſhall be aſſembled. We hope that he will enable us to give your Honourable Board a more exact Detail of the Tranſaction.

We have the Honour to be, with Reſpect,
Honble Sir, and Gent. &c.

Dacca,
Sept. 21ſt, 77.

(Signed) C. W. Boughton Rouſe,
J. Hogarth.
Wm. Shakeſpear.

(Encloſure.)

Tranſlate of a Letter from Syed Allee Cawn to the Chief, received September the 20th, between 3 and 4 P. M.

At the Time of Noon ſuddenly, Doondy Jemautdar having come from Mr. Peat, ſaid to Jaggernaut, Peſhcar of the Sudder Phouſdarry of Dacca, get up; and he ſet himſelf down before him.

How much ſoever he was queſtioned, and told, that Warrants are not iſſued upon the Officers of the Nezamut, not a Syllable was anſwered; but at once many People with Clubs in their Hands arrived,

arrived; after which the ſaid Doondy aſked, are the People arrived? Reply was made, they are arrived.—The ſaid Doondy then made a Noiſe, and ſaid, "Seize the Waiſt of Jaggernaut, and take him away."—Seizing the Waiſt of Jaggernaut, and taking him away, they began beating him, at the ſame Time ſpeaking of the Nabob, of the Gentlemen of the Council, &c. in Terms of Abuſe and Reproach.—Alſo cut the Hand a Sepoy, who is ſtationed with the Phouſdar, ſet down at the Doors; ſent Intelligence; called almoſt Fifty People together.—Seeing this, I faſtened the Gate.—They are now throwing Bricks into the Houſe; they are forcing the Gate; they have plundered the Palanquin Houſe, and deſtroyed the Palanquin;—as yet the Gate is faſt.—If (which God forbid) they ſhould force the Gate, the Honour of our Women is affected.—Compared with Honour, I put no Value upon Life.—You, Sir, are Chief; what is the Reaſon that all theſe Oppreſſions come upon me? Let me have Juſtice.

A true Tranſlate.

(Signed) Wm. Cator.
Perſn. Tranſr.

A true Copy.
(Signed) Hy Lodge,
Secretary.

(Encloſure.)

Sir,

Agreeable to your Deſire, I waited on Murr Ally; it was between Five and Six o'Clock when I got to his Houſe, ſome Hours after his receiving the Shot. I found him wounded in the Belly about Two Inches from the Linia Alba, towards the Right Side, and about Two Inches higher than the Navel.—The Orifice of the Wound was ſo large, as to admit my little Finger.—He had not bled much outwardly—was feveriſh, his Pulſe quick and hard; complained of Pain all over his Belly, and down the Inſide of his Thigh, and of great Thirſt. I introduced a Probe about Two Inches into the Wound, but could not get it any further without Danger of aggravating the Symptoms, by hurting ſome of the Viſcera.

From his Poſition when he received the Wound, and from what I could judge from probing, I conjecture that the Ball went towards the back Part of the left Side, rather obliquely downwards; it went through a Fold or two of his Jammah or Gown, the Skirts of it being wrapt round his Waiſt. The Cloth of it was burnt in One or Two Places, I imagine by the Gunpowder. He had no Cumberband on.

He complained much of Pain in his Shoulders and Back; and upon Inſpection, I found ſeveral Contuſions upon theſe Places. Finding it impracticable to trace the Ball, and dangerous to attempt it, I dreſſed the Wound, took ſome Blood from his Arm, ordered him ſome Medicines, and left him. Four Hours afterwards ſent my Servant to enquire how he did; returned, and told me he was ſeized with a Vomiting, and complained of great Pain in the lower Part of his Belly.

Upon the Whole, though I cannot poſitively ſay that the Wound will prove Mortal, I do think that it will.

I am, Sir,
Your moſt obedient, humble Servant,

Dacca,
Saturday Night,
Sep. 20, 77.

(Signed) J. Reid.

A true Copy.
(Signed) Henry Lodge,
Secretary.

To the Honourable Warren Haſtings, Eſquire, Governor General and Council of Revenue, Fort William.

Gentlemen,

Jaggernaut, Dewan to the Provincial Phouſdar of the Dacca Diviſion, has this Day informed us of his Intention to proceed to Calcutta, that he may be at Hand to receive any Orders from his Superior, the Naib Soubah, and alſo that he may be on the Spot, in caſe your Honourable Board ſhould find it neceſſary to put any Queſtions to him. We have furniſhed him with a Letter of Introduction, to be delivered to the Secretary of the Revenue Department, upon his Arrival.

We have the Honour to be, with reſpect,
Honourable Sir, and Gentlemen, &c.

Dacca,
25th Sept. 1777.

(Signed)
C. W. Boughton Rouſe,
J. Hogarth,
J. Shakeſpear,
Wm Hollond.

To the Honourable Warren Haſtings, Governor General, &c. Council of Fort William.

Honourable Sir, and Gentlemen,

Yeſterday Information was brought to us, of the Murder of various Perſons in the Pergunnah of Turruff, by an Inſurrection of the Nuffers, or Hereditary Slaves of the Zemindar; and Notice being given to the Phouſdar, he declined taking any Meaſures for apprehending the Murderers.

We find ourſelves wholly at a Loſs how to act, and therefore tranſmit his Letter, requeſting to be favoured with your Inſtructions, or that ſuch Directions ſhould be ſent to the Phouſdar, as may induce him to reſume the Functions of his Office.

We have the Honour to be,
Honourable Sir, and Gentlemen, &c.

Dacca,
Sept. 25th, 77.

(Signed)
C. W. Boughton Rouſe,
J. Shakeſpear,
Wm. Hollond.

(Encloſure.)

Tranſlation of a Letter from Syed Allee Cawn, Provincial Phouſdar, to the Chief; received September 25th, 1777.

Your Letter, which acquaints me that the Slaves of Mahomed Fater, the Son of Mahomed Natir, Chowdrie of a Diviſion of Pergunnah Turrupp, have murdered Mahomed Fater, with his Mother, as alſo Rambudder Gomaſtah, and Brother of Rambudder, and have abſconded, that I might depute the Phouſdary People, in order to apprehend the ſaid Slaves, has arrived, and the Purport is underſtood.

Do you yourſelf decide, Sir; when the Phouſdarry is reduced to ſuch a Paſs, that Doondy, Mr. Peat's Jemmadar, can, through Malice, and without ſetting forth his Buſineſs, diſgrace and diſhonour the Paſhcar of the Phouſdarry; and that the ſaid Gentlemen ſhall, without Enquiry and Examination, come with his People to my Houſe, who am called Phouſdar, and break open the Door of my Houſe; that the Jemmadar ſhall cut my Father in the Head with a Sword, and the ſaid Gentlemen wound my Brother with a Ball from a Piſtol, how is it poſſible for me to enter upon the Functions of the Phouſdarry? If all this has befallen me, notwithſtanding my being free of Fault, and my having not yet iſſued any Orders from the Phouſdarry, moſt undoubtedly, in conducting the Buſineſs, Complaints, juſt or unjuſt, may be preferred; under which Caſe, ſhould a Warrant come againſt me, it may probably be with Difficulty that I preſerve my own Life. It is in the Hopes of Favours, and Protection and Preferment, that my faithful Services have ever been at command, not expecting that the Reward for Service ſhould be ſuch as I now experience; and as to the future, until I am ſatisfied in this Point, I cannot diſcharge my Functions. The Gentlemen are the Rulers. I write this for Information.

Under the Seal of
Syed Allee Cawn.

A true Tranſlate.
(Signed) Wm Cator.

A true Copy
(Signed) Hy Lodge,
Secretary.

To the Honourable Warren Haſtings, Eſq. Governor General, &c. Council of Fort William.

Honourable Sir, and Gentlemen,

We beg Leave to lay before you the encloſed Papers. Theſe will evince to you, Gentlemen, what ſerious Importance it is to us and the Commanding Officer, to be furniſhed with the moſt explicit Directions how to conduct ourſelves ſo as to anſwer your Expectations, without either concurring in a Surrender of the Rights you may judge inherent in the Phouſdarry Court, or on the other Hand, laying ourſelves open to the Diſpleaſure of the Supreme Court.

As our Situation is difficult, we hope to have your Orders without the Loſs of Time.

Upon formal Application to the Surgeon, to Day, he replied, that he could not yet declare Mui Hoſſaine Ally to be out of Danger, the Inflamation and Fever ſtill continuing, but that he was much better.

Mr. Peat has not yet required to have the Guard removed.

We have the Honour to be,
Honourable Sir, and Gentlemen, &c.

Dacca,
Sept. 26, 77. (Signed)
C. W. Boughton Rouſe.
J. Shakeſpear.
Wm Hollond.

(Encloſure.)

Extract from the Proceedings of the - - - September 1777.

Read the following Letter and Encloſure from Lieutenant Cowe.

To C. W. Boughton Rouſe, Eſq. Chief and Council of Dacca.

Gentlemen,

The accompanying Letter relative to the Affair between Jaggernaut and Mr. Peat, I have received this Day from Mr. Juſtice Hyde, and now ſend it for your Peruſal.

I am, Gentlemen,
Your moſt obedient Servant,
Dacca,
Sept. 26, 77. (Signed) J. Cowe.

To Captain Cowe at Dacca.

Sir,

By what I have heard, I preſume you will receive Orders by the Poſt to Night, to give Aſſiſtance to Mr. Peat in arreſting again Jaggernaut, who has been reſcued; and in ſo doing, it is lawful to break open Doors, and he is not now to be bailed, but muſt be ſent to Calcutta.

Mr. Peat informs me, you doubted whether the Command in His Majeſty's Charter to give Aſſiſtance in the Execution of the Powers of the Court, applied to Caſes of Civil Suits. It certainly does, when ſuch Aſſiſtance is neceſſary; but beſide, the Nature of the Caſe is now altered; for the Reſcue is a Crime in which Jaggernaut partakes.

If the Man who was ſhot dies, I have no Doubt you will give ſufficient Protection to Mr. Peat, who, in that caſe, muſt come to Calcutta for his Acquittal.

If he does not die, and any Body ſhould adviſe or order you to bring him, (I mean Mr. Peat) hither againſt his Will, without a Warrant from ſome of the Judges, I (only becauſe I ſhould be very ſorry that any Gentleman, who meant only to do his Duty, ſhould ſuffer any Inconvenience from it) caution you to beware; for the impriſoning an Officer of the Court is a Contempt, for which the Puniſhment is Impriſonment as well as Fine.

If any Perſon deſires you to impriſon Mr. Peat, I ſhould adviſe, that you aſk a Bond of Indemnity, in a large Sum; becauſe it is probable he would recover a very large Sum in an Action.

I beg the Favour of you, for fear my Letters to him ſhould not be ſuffered to come ſafe, to tell Mr. Peat, that I highly approve his Conduct, and doubt not he will receive proper Support from the Court, whoſe Officer he is.

I doubt not you will give him full Protection from the People of the Phouſdar, becauſe, as a Britiſh Subject, I doubt not you will pay due Attention to your Allegiance to the King, as well as your Duty to the Company.

I am, Sir,
Your moſt obedient Servant,
Fort William, (Signed)
Tueſday Septr 23d, 1777. John Hyde.

Agreed, we tranſmit them to the Governor General and Council, with the accompanying Letter.

A true Extract.

(Signed) H. Lodge,
Secry.

Board's Minute.

As it appears from the Letter of the Chief and Council of Dacca, dated the 22d Inſtant, that Mr. Peat has officiated ſince his Reſidence at Dacca, both as an Under Sheriff, and as an Attorney of the Supreme Court, holding at the ſame Time the Office of Maſter in Equity, which Offices appear incompatible in their Natures, and the Two firſt are ſtated by the Chief and Council of Dacca to be contrary to an expreſs Law:

Reſolution.

Agreed, That the aforeſaid Letter, from the Chief and Council of Dacca, dated the 22d Inſtant, be put into the Hands of our Standing Counſel, and that they be deſired to give their Opinions very minutely upon the Legality of the Proceedings of Mr. Peat, in the Execution of the Functions ſeverally belonging to the Three Offices held by him, of Maſter in Equity, Attorney in the Supreme Court, and Under Sheriff.

Further Minute.

And as the Letter of the Provincial Council of Dacca, of the 18th of September, contains many Particulars of Mr. Peat's Conduct as Attorney at Law, and original Notes or Papers ſtated to be ſuch, from him in that Character, to ſundry Perſons, Inhabitants of the City of Dacca;

Reſolution.

Agreed, That this Letter, with its Encloſures, be alſo ſubmitted to the Company's Standing Counſel for their Conſideration, in forming their Opinion upon the Queſtion referred to them.

Anſwer to Dacca.

Agreed, That the following Anſwer be written to the Chief and Provincial Council of Dacca.

To Mr. C. W. B. Rouſe, Chief, &c. Provincial Council of Revenue at Dacca.

Gentlemen,

We have received your Letters of the 18th, 22d, 23d, 25th, and 26th Inſtant, with their Encloſures.

We direct you to recommend, in the moſt earneſt Manner, to the Phouſdar to enter upon his Office, and to exerciſe the Functions of it, as the Peace of the Country will be greatly endangered by the Suſpenſion of the Powers of the Police, and the Conſequences he apprehends may be obviated by a prudent Conduct on his Part, and by a cautious Obſervance of the Advice which has been communicated to him.

Fort William,
Septr 30, 1777.

We are, &c.

DACCA

DACCA APPENDIX, N° 8.

Extract of a Conſultation.

Fort William the 30th September 1777.

At a Conſultation;

PRESENT,

The Honourable Warren Haſtings, Governor General, Preſident, and
Philip Francis, Eſq;
Mr. Barwell indiſpoſed.

Dacca Letter, L. R. N° 546.

THE following Letter from the Provincial Council of Dacca was yeſterday read in the other Department.

To the Honourable Warren Haſtings, Eſq; Governor General, and Council, Fort William.

Honourable Sir, and Gentlemen,

We have now the Honour to encloſe you ſeveral Repreſentations made to us relative to the late unfortunate Fray; you will obſerve by our Proceedings, that from an anxious Deſire to prevent further Diſturbance, we were at length neceſſitated to become Bail to Mr. Peat for Jaggernaut Dewan. When the Motive which dictated this Reſolution is conſidered, we ſhall hope to ſtand excuſed to your Honourable Board, from being aiding or aſſiſting in the Relinquiſhment of any of the Rights or Privileges of the Nizamut. Jaggernaut had delivered himſelf up to us, and we were of Opinion, it was moſt adviſeable for him temporally to acquire, by giving Bail under a Denial of the Juriſdiction, and a Proteſt againſt Mr. Peat for all Conſequences, Loſs, and Damages to himſelf, and all others concerned. Jaggernaut, by this Bail, is bound to appear before the Supreme Court on the 22d Day of October next, to anſwer to the Suit of Khyroo Hircarrah, for a Treſpaſs and falſe Impriſonment, under the Penalty of Ten thouſand Rupees. We therefore hope that the Company's Counſel will be inſtructed to purſue ſuch Meaſures as ſhall prevent the Forfeiture.

We take this Occaſion to notice a very important Circumſtance on the preſent Diſcuſſion; that Mr. Peat has been acting contrary to Law during the whole Time of his Reſidence at Dacca, by holding a very active Practice as Attorney at Law at Dacca, proved by his original Letters already ſent you, and at the ſame Time acting as Deputy Sheriff, contrary to a Statute of Henry the Fifth, which enacts, "That an Under Sheriff cannot execute that Office, and practiſe as an Attorney at the ſame Time." The Reaſon aſſigned for which is, that it would be a Cauſe of increaſing Suits, a Temptation to partiality, and an Hindrance in the Diſpatch of his proper Buſineſs.

We beg it may be conſidered, whether this does not afford ſufficient Grounds to have the Court moved for an Injunction. Mr. Peat's Threefold Capacity, Maſter in Chancery, Attorney, and Deputy Sheriff, in a Situation ſo far removed from the Supreme Court, gives him an Influence and Advantage in the Suits he engages, and leaves little Chance of Equality to the poor Native, againſt whom he may be employed.

In Reſpect to the preſent Matter, we muſt obſerve that Jaggernaut himſelf, Syed Allee Cawn the Phouſdar, and every other Perſon preſent, who have appeared before our Board, perſiſt in affirming that no Writ or Warrant whatever was ſhewn to them; and we believe it to be an eſtabliſhed Rule in Arreſts at the Suit of the Subject, that the Sheriff's Officer is to ſhew at whoſe Suit it is, and at what Court the Writ iſſued, and for what Cauſe, or otherwiſe the Arreſt be made by the Sheriff's ſworn Bailiff, whoſe Powers and Authorities ſhall be known to the Priſoner. Much may depend upon this, becauſe if the Arreſt is not effectively made, there can be no Reſcue.

Should the Officers of the Nizamut ſuffer for the preſent Tranſaction, it would doubtleſs be a very great Hardſhip; for Syed Allee Cawn the Phouſdar produced to us a Letter from the Naib Soubah Mahomed Reza Cawn, informing him that no Warrants or Writs could operate upon the Officers of the Nizamut; that this was the Anſwer to be given to the Officers of Court, and if they ſhould ſtill be unſatisfied, they ſhould be referred to him, Mahomed Reza Cawn, for a further Reply. You ſee therefore, Gentlemen, in what a Predicament they ſtand, if the Court takes an Offence upon their making the Reply dictated by their immediate Superiors in Office.

Since we learnt laſt Night the Nature of the Suit, and the Name of the Complainant, we have been at Pains to trace the Offence laid to the Charge of Jaggernaut; what we have learnt is as follows:

That Complaints were made againſt Khyroo, a Poyk, for ſome Miſdemeanor, on which he was arreſted by the Phouſdarry Court; and upon regular Conviction and Decree of that Court, was confined, and obliged to make Reſtitution.

In July laſt, a Habeas Corpus was iſſued for the Removal of this Khyroo from the Cuſtody of Baudull Sing, a Hircarrah belonging to the Court. Baudull Sing, it ſeems, denied having him in Charge, and the Habeas Corpus was returned. In the mean Time the Naib Soubah expedited an Order to the Phouſdarry, requiring that Khyroo ſhould be ſent Priſoner to him, to anſwer to ſome Complaint exhibited at his Tribunal. Khyroo was accordingly ſent to the Naib Soubah at Moorſhedabad, and it is conjectured he made his Eſcape from thence to Calcutta, where he has laid his Suit againſt Jaggernaut. Mr. Peat did before apply to Jaggernaut, as "*Attorney at Law*" for the Plaintiff, demanding his Releaſe, or threatening him with a Suit; to which Jaggernaut made Reply, that Khyroo was not in his Cuſtody, but ſent to the Nabob Mahomet Reza Cawn, by his Order, &c. as above; ſo that Mr. Peat is Attorney in this very Suit.

Mr. Peat, you will obſerve, was taken into Cuſtody by his own Requeſt: At the ſame Time we think it our Duty, whilſt the Man's Life is in Danger, to prevent his Eſcape; but we muſt beg your immediate Directions what Conduct to obſerve, as well in caſe the Man ſhould die, as if he ſhould be declared out of Danger; the lateſt Accounts were extremely unfavourable; and although the Ball has been extracted, there is Reaſon to apprehend the worſt, as it muſt neceſſarily have paſſed through the Inteſtines to be found in the Part where it has been extracted. You will be pleaſed to remark, Gentlemen, that we have taken no Part in this Tranſaction, but that of ſending a Reinforcement to the Phouſdar to keep the Peace of the City after the Fray had happened, taking Mr. Peat into Cuſtody at his own Requeſt, and giving Bail to Jaggernaut.

We cannot omit to obſerve in this Place, that in the Suit againſt the Zemindar, mentioned in our Letter of the 18th, to be confined by Mr. Peat, in Quality of Deputy Sheriff, is actually proſecuted by Mr. Peat as Attorney at Law, which appears by the original Note forwarded to you with that Letter.

It is fitting we ſhould point it out to your Notice, that all criminal Juſtice is at a Stand, and ſeem not likely to be reſumed until the deciſive Conſequences of the preſent Diſputes ſhall be publicly declared and known; it touches to the very Exiſtence of a Government throughout the Province, that the Juriſdiction of the Phouſdar and his Superior, the Naib Suba, be admitted free from all Doubt or Ambiguity. How otherwiſe can it be ſuppoſed a Phouſdar will perform any Function of his Office? how preſume to execute a Criminal convicted and ſentenced to Death by the eſtabliſhed Laws of his Government and his Religion, if he is liable himſelf to ſtand to Actions of Damages, as in the preſent Suit againſt the Dewan, or to anſwer to a criminal Accuſation for any Puniſhment he may inflict, before the Supreme Court of Judicature, whoſe Judges are bound by their Oaths to judge according to the Laws of England? The penal Syſtem of Mahomedan Juriſprudence admits of Puniſhment not known to the Laws of our own Country, or known to them only as the Deſcription of Offences which may be capitally puniſhed. Paint to yourſelves, Gentlemen, the Scene of Anarchy and Diſtraction which may ariſe if the preſent Uncertainties are not effectually removed. We have the Honour to be, &c.

Dacca, 22d September 1777.

(Signed)
C. W. Boughton Rouſe,
J. Hogarth,
J. Shakeſpear,
Wm Hollond.

(Encloſure.)

SPECIAL APPENDIX, No.

(Enclosure)

Extract from the Dacca Proceedings, of the 22d September 1777.

At a Provincial Council of Revenue;

PRESENT,

Chs Will. Boughton Rouſe, Eſquire, Chief.
Meſſrs. John Hogarth,
John Shakeſpear,
Willm Hollond.

Syed Allee Cawn himſelf attending the Board, delivers in the following Repreſentation and Papers.

The Repreſentation of Syed Allee Cawn.

On Saturday the 17th of Shawbān, I was ſitting in my own Dewan Connah, with the Omlahs of the Cutcherry, and ſeveral Friends, when Doondy, Jemautdar belonging to Mr. Peat, about Noon, unexpectedly came, and ſaid, with great Contempt, to Jaggernaut (Peſhcar to the Phouſdarry of the Sudder Diviſion of Dacca) Riſe; and ſat himſelf before the Peſhcar. Howmuchſoever I aſked what is the Matter, or Reaſon? if it is a Warrant, it has not Power over a Servant of Nizamut; not a Syllable was anſwered; but there came at once a hundred People, with Clubs in their Hands; and on their Arrival, the ſaid Doondy made a Noiſe, and ſaid, "Seize the Waiſt of Jaggernaut, and take him away." They ſeizing the Waiſt of Jaggernaut aforeſaid, and taking him away, began beating him, and were proceeding on their Way. The Centinel who was ſtationed with the Phouſdar, and guarding the Arm Houſe, in the Hand was wounded with a Kuttar; on which the other Sepoys ſeized the Kuttar from out of his Hand, and kept it himſelf. In the mean Time Jaggernaut eſcaped from out of their Hands, and run away. After this Hurry Sing, Havildar of the Sepoys, &c. howmuchſoever they aſked of Doondy's People, and thoſe that were with him, "What is the Matter? what Authority have you?" if you have a Note, or Letter, or Warrant, ſhew them; they ſhewed nothing under this Circumſtance. Howmuchſoever it was ſaid, "In caſe you ſay nothing, go away, what do you ſit for? they went not, and anſwered nothing but Abuſe; they groſsly abuſed the Gentlemen of the Council, and the Chief of Dacca; alſo the Nabob. And during this, more People arrived, inſomuch that the People of the Phouſdarry, ſeeing the Crowd, ſhut the Gate; on which Bricks and Stones were thrown from without, into the Houſe; and they plundered the Palanquin Houſe, that was on the outſide; alſo ſtole the Utenſils belonging to the Palanquin, &c. Sometime after, the above Gentleman arrived, and having broke the Door of the Houſe, entered it; and his People began to plunder, and diſtribute Blows with Clubs.—Syed Mucknum Cawn, my Father, on ſeeing the above Gentleman, having roſe, went to that Gentleman, and ſaid to him, "Forbid your own People to make an unneceſſary Diſpute, or to oppreſs; Jaggernaut is not here, his Houſe is ſeparate." During this, the ſaid Doondy ſtruck Cawn aforeſaid with a Sword; and the aforeſaid Gentleman wounded Meer Haſſaine, the Son-in-Law of Mucknum Cawn, and my Brother, with a Ball from a Piſtol in his own Hand; and Mirza Hoſſaine Cooly, Meer Shaujawaud Ally, Fakeer, Khodadaud Cawn and Meer Ahmud Ally, Merchants, who were on a Viſit, were wounded with a Sword, Spear, and Club. After this, the People of the above Gentleman diſperſed themſelves in the Houſe, went into the Houſes of the Mutſuddies, that were behind the Dewan Connah, and plundered them of every Thing. You, Gentlemen, are the Rulers of the Country; on an Enquiry, order Juſtice. Excepting over the Servants of the Company, and the Engliſh, a Warrant has no Authority. What Crime have I committed, that my Houſe ſhould be entered and plundered; alſo, that my Father, Brother, and other Men Inhabitants of the City, who had come on a Viſit, ſhould be wounded and diſgraced. I pray for Juſtice.

(Signed) Syed Allee Cawn.

A true Tranſlate.

(Signed) Wm Cator,
Perſian Tranſlator.

The Repreſentation of Meer Shaujawaud Ally, Fakeer.

On Saturday the 17th Shawban, I went on a Viſit to the Houſe of Syed Allee Cawn; and before had no Intelligence of a Diſpute, when a Crowd of People, belonging to Mr. Peat, arrived at the Door, with a great Noiſe and Diſturbance; when Cawn abovementioned ordered one of his People to ſhut the Door; and the Door was ſhut; after which the Men belonging to the ſaid Gentleman began to throw Bricks and Stones from without. Sometime after, the ſaid Gentleman having arrived, and broken the Door of the Houſe of Cawn aforeſaid, entered the Houſe, and the Men belonging to the ſaid Gentleman began to diſtribute Blows. On ſeeing this Procedure, I ſtood on one Side, whereas they aſſembled there. I made many Supplications, and ſaid, "I am a Fakeer, I have no Dealing with any Man; why do you unjuſtly beat me, and put me to Pain?" But they ſhewing no Friendſhip, wounded me with a Spear, alſo broke my Teeth with a Club. I therefore pray that, on an Enquiry, I may be ordered Redreſs.

(Signed) Meer Shaujewaud Ally, Fakeer.

A true Tranſlate.

(Signed) Wm. Cator,
Perſian Tranſlator.

The Repreſentation of Khoddadaub Khawn.

On Saturday the 17th of Shawban, of the Year 19. I went on a Viſit to the Houſe of Syed Allee Cawn; was ſitting with Sayed Muckutam Cawn, and before had no Intelligence of a Diſpute; when a Crowd of People, belonging to Mr. Peat, arrived at the Door with a great Noiſe and Diſturbance; on which Cawn abovementioned ordered one of his own People to ſhut the Door, and the Door was ſhut; after which the Men belonging to the ſaid Gentleman began to throw Bricks and Stones from without. Sometime after, the ſaid Gentleman, having arrived, and broke the Door of the Houſe of Cawn aforeſaid, entered the Houſe, and began diſtributing Blows. I ſeeing this Procedure, ſtood on one Side; and the Men belonging to the above Gentleman ſet on me, and beat me with Clubs. I pleaded much; "I am come on a Viſit; what is my Fault, that People unjuſtly ſtrike me?" I was not heard, and was wounded with the Blow of a Club. I therefore pray, that the Oppreſſors and Rioters may be called to the Preſence, and Juſtice rendered.

(Signed) Khodaud Khawn.

A true Tranſlate.

(Signed) Wm Cator,
Perſian Tranſlator.

The Repreſentation of Meer Ahmud Ally, Merchant.

On Saturday the 17th of Shawban, I had come to the Houſe of Syed Allee Cawn, for the Sale of ſome Merchandize; and Cawn aforementioned being in the inner Apartments, I was ſitting with Muckmam Cawn, and before had no Intelligence of a Diſpute; when many People belonging to Mr. Peat arrived with a great Noiſe and Diſturbance; on which the ſaid Cawn told one of his own People to ſhut the Door; and the Door was ſhut; when People belonging to the above-named Gentleman began to throw Bricks, Stones, and Sticks from without. Sometime after, the above-named Gentleman arrived with a Crowd of People; and having broken the Door of the Houſe, and entered the Houſe, began diſtributing Blows. I was deſirous of running away with the Merchandize I had brought for Sale, but the Men belonging to the aforeſaid Gentleman fell upon me, and broke my Head with the Blow of a Club, and plundered me of my Merchandize. You, Gentlemen, are Rulers, I pray that on an Enquiry I may be ordered Redreſs.

(Signed) Meer Ahmud Ally.

A true Tranſlate.

(Signed) Wm. Cator,
Perſian Tranſlator.

Copy of a Report witneſſed.—Dated the 17th of Shawban, in the 19th Year of the Reign, is as follows:

I Syed Allee Khawn, the Son of Syed Mockrom Khawn, Inhabitant of the City of Dacca, am deſirous that thoſe People who are acquainted with and know the Circumſtance, ſhall (agreeably to the Law which ſays, "a Man called upon in Evidence, who conceals any Part of the Truth will have his Heart filled with Darkneſs") witneſs and confirm, that on Saturday the 17th of Shawban, in

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in the 19th Year of the Reign, equal to the 7th of Assin 1184, about Noon, Doondy, Jemautdar belonging to Mr. Peat, unexpectedly came to my Houſe, and in the Dewan Khonnah ſaid to Jaggernaut (Peſhcar to the Phouſdarry in the Sudder Diviſion of Dacca) who was ſitting there, Riſe; and ſat himſelf before him. Howmuchſoever it was aſked, and ſaid, What is the Matter or Reaſon? that if it is a Warrant, it has not Power over a Servant of the Nizamut; not a Syllable was anſwered. But there came at once a Number of Men with Clubs in their Hands; and on their Arrival the ſaid Doondy made a Noiſe, and ſaid, "Seize the Waiſt of Jaggernaut, and take him away." They ſeizing the Waiſt of Jaggernaut aforeſaid, and taking him away, began beating him; alſo ſpeaking in Terms of Abuſe of the Gentlemen of the Council and Chief of Dacca, likewiſe of the Nabob.—They wounded the Centinel who was ſtationed with the Phouſdar, and guarding the Arm-houſe, in the Hand with a Kuttar; on which the Sepoys in the Guard-houſe ſeized the Kuttar from out of his Hand, and kept it himſelf.—After this, Hurry Sing, Havildar of Sepoys, &c. howmuchſoever he aſked of Doondy's People, and thoſe who were with him, "What is the Matter? What Authority have you? if you have a Note, Letter, or Warrant, or any Thing with you, ſhew it;" they ſhewed nothing under this Circumſtance. Howmuchſoever it was ſaid, "In caſe you ſay nothing, go to your Houſes; what do you ſit for?" they went not; and beſides Abuſe, made no Anſwer. During this, more People arrived, inſomuch that the People of the Phouſdarry, ſeeing the Crowd, ſhut the Gate; on which Bricks and Stones were thrown from without into the Houſe.—They plundered the Palanquin Houſe that was on the Outſide; alſo ſtole the Utenſils belonging to the Palanquin, &c. and broke the Palanquin.—Sometime after, the above Gentleman arrived in a Chair Palanquin; and having broke the Door of the Houſe, entered it, and his People began to deal Blows with Clubs, alſo to plunder. Sied Mockrum Cawn, my Father, ſeeing the above Gentleman, roſe, went to him, and ſaid, "Forbid your People to make any Diſpute; why do they make an unneceſſary Diſpute; and what do they want?"—During this, the ſaid Doondy wounded Cawn aforeſaid on the Head, with a Stroke of a Sword; and the aforeſaid Gentleman wounded Meer Huſſaine, the Son-in-Law of Cawn abovementioned, with a Ball from a Piſtol in his own Hand; and Mirza Huſſaine Cooly, Shawjawaud Ally, Fakeer, Khodadaud, and Meer Ahmud Ally, Merchant, who were on a Viſit, were wounded with a Sword, Spear, and Club.—After this the People of the above Gentleman diſperſed themſelves in the Houſe; went into the Houſes of the Mutſuddies that were behind the Dewan Khonnah, plundered them of every Thing, and went away. Let thoſe who are acquainted with theſe Circumſtances, affix their Names as Witneſſes, that God may reward and bleſs them.

Signed as Witneſſes, by {
Khajah Shum Shuddy, under the Seal of Meer Subs.
Meer Golaum Hoſſaine, under the Seal of Ally Akbar.
Mahmud Aukil Yaſawul, Hurry Sing, Havildar, Mahmud Hoſſain, Meer Golaum Ally, Meer Ahmud Ally, Mahmud Hoſſain, Mahmud Hoſain, Mahoutah Khawn, under the Seal of Meer Mahmud Tuchy, Putwaun Sing.

A true Tranſlate.

(Signed) Wm. Cator,
Perſian Tranſlator.

At the ſame Time Jaggernaut preſents himſelf to the Board; ſetting forth, in the Firſt Place, he has never ſeen any Warrant, pretended to be ſerved upon him—That he meant no Diſreſpect to the Court, or any Way to elude Juſtice—That he is a Servant of the Phouſdarry Court, and ready to anſwer in the Courts of the Country, to any Charge that can be laid againſt him—That he does not underſtand the Rules of the Engliſh Court, nor is he under its Juriſdiction—And if Security is required of him, he will give it—And that, in Truth, the Behaviour of Mr. Peat's Jemautdar towards him, ariſes from private Pique and Reſentment; as the Gentlemen will perceive, by reading the Repreſentation he now delivers in, in Writing.

The Repreſentation of Jaggernaut.

On the 17th of Shawbaun, of the Year 19, I was ſitting with Syed Allee Cawn, employed in tranſacting the Buſineſs of the Phouſdarry; when Doondy, Jemautdar belonging to Mr. Peat, having come to me, and ſat down, ſaid, "Riſe." I aſked many Queſtions, ſuch as, From whence have you come? What have you in your Hand—inform me? But he paid no Attention to what I ſaid, beſides the Cry of Riſe! Riſe! and foul Abuſe. No Anſwer was given. After this many People, with Clubs in their Hands, arrived; on which the ſaid Doondy made a Noiſe, and ſaid, "Seize the Waiſt of Jaggernaut, and take him away;" when Four or Five Men ſeizing me by the Waiſt and Neck, and taking me out of the Dewan Connah, they, before thoſe preſent in the Cutcherry, beat me; and the ſaid Doondy ſaid to Hurry Sing, the Company's Havildar, The Perſon for whom I have come in this Manner, is dead—This is now his Dewan; and whoever is ſitting in his Muſnud, from them I ſhall require an Anſwer. So, becauſe I am a Servant of the Nizamut, and belong to the Nizamut

Cutcherry, I am unjuſtly beat and diſgraced. I therefore pray I may, on an Enquiry, be ordered Redreſs.

(Signed) Jaggernaut.

A true Tranſlate,

(Signed) W^{m} Caror,
Perſian Tranſlator.

Syed Allee Cawn, hearing the above Declaration, mentions to the Board, that one Doondy Cawn came to ſeize Jaggernaut. He aſked him repeatedly, What was his Buſineſs? whether he had any Warrant? whether he had any Claim?—But could obtain no Anſwer; and he then concluded within his own Mind, that there could be no Warrant in the Caſe; that ſuch was not the Mode in which Proceſſes were ſerved; and that he muſt therefore have come with a Deſign to make a Diſturbance.

The Phouſdar being aſked, Whether he has held his Court ſince his Arrival from Moorſhedabad? he informs the Board, That he did intend to ſit in public Court Yeſterday; but that every Thing now is thrown into a State of Confuſion; and he cannot think of going to preſide in a Court of Juſtice, when he is not ſafe, even in his own Houſe, from the Officers of the Engliſh Court.

The Phouſdar informs the Board, that he has juſt received Intimation of a large Party of Matchlock Men being ſtationed in the Road, with Narrain Miſſer, the Banyan of Mr. Peat, to arreſt Jaggernaut, when he ſhall return from Council.

That the Council may do all in their Power to prevent further Miſchief, agreed the following Letter be written to Mr. Peat:

To Mr. Peat.

Sir,

Jaggernaut Dewan, the Perſon mentioned in your Letter, has this Day ſurrendered himſelf to us. He poſitively denies having ſeen any Writ of the Supreme Court; ſo, if there was no Arreſt, there could be no Reſcue; nor can we learn, either from himſelf, or any other Perſon, what Suit has been inſtituted againſt him. Being a Servant of the Nizamut, he denies the Juriſdiction of the Supreme Court; and, we apprehend, is therein guided by the Orders of his Superiors. He has tendered us Security, if required, to appear before any of the Country Courts—We, on our Parts, will depoſit with you any Sum you ſhall ſpecify, to anſwer the Demand againſt him, if he is hereafter adjudged liable to the Juriſdiction.

A vague Report has this Inſtant reached us, that a Number of Match-lock Men are ſtationed in ſome Part of the City, to ſeize Jaggernaut upon his Return from hence—By the Stations we hold, we conſider ourſelves bound to take every poſſible Meaſure for maintaining the Peace of the City, and of the Province. We are exceedingly concerned at the Tumult which aroſe on Saturday laſt, and the unfortunate Conſequences which followed—From a ſincere Deſire to obviate the Poſſibility of further Miſchief and Bloodſhed, we think it neceſſary to mention to you, that Jaggernaut is a principal Servant in the Provincial Phouſdarry Adaulut—That the Phouſdar has at all Times had a conſiderable military Force at his Command; and that both the Phouſdarry Officers and this Force, are entirely independent of our Authority.

As this Incident will probably give Riſe to a Diſcuſſion which muſt publicly decide upon the Juriſdictions of the different Courts, and it would be unfortunate that Individuals ſhould ſuffer where no Treſpaſs is intended, and only a public Queſtion is agitated to be decided by higher Powers, We, holding ourſelves anſwerable to produce the Perſon of Jaggernaut whenever he may be required, do wiſh and requeſt that no further Proceſs may be made, or Meaſures taken, till both you and we receive the Orders of our reſpective Superiors.

At preſent the Criminal Juriſdiction of the City is at a Stand.

We requeſt to be favoured with your Anſwer before the Council breaks up, and whilſt the Phouſdar is with us.

We are,
Sir, &c.

Dacca,
Septr 22d, 1777.

While

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While the Board are preparing this Letter, the following is received from Mr. Peat.

To Charles William Boughton Rouſe, Eſq.

Sir,

I have Information that Jaggernaut Dewan is now at your Houſe; it therefore behoves me, as Deputy Sheriff, to requeſt you to deliver him up to me, having been arreſted on Proceſs iſſuing out of the Supreme Court, and reſcued on Saturday laſt. I hope, Sir, you will think it right ſo to do.

I am, Sir,
Your moſt obedient Servant,
(Signed) S. Peat.
Dep^{y} Sheriff.

September 22d, 77.

Agreed, That the foregoing Letter be diſpatched to him, and that we reply to his Letter as follows:

To Mr. Peat.

Sir,

Juſt before we had finiſhed the Letter this Inſtant diſpatched to you, our Chief received your Note, requiring the Delivery of Jaggernaut; to which, we flatter ourſelves, you will find a ſufficient Anſwer anticipated in that Letter.

We are, &c.

Dacca,
September 22d, 1777.

Hurry Sing, Naigue of the Sepoys detached with the Phouſdar, delivers the following verbal Account of what paſt on Saturday.

On Saturday when I was attending at the Houſe of the Phouſdar, Syed Allee Cawn, and Four Perſons whom I did not know, arrived.—The Centinel aſked them in my Hearing, Who they were? They replied, they were Syed Allee Cawn's Servants, going to pay their Reſpects to him; ſo they went in towards the Cutcherry at Syed Allee Cawn's Houſe; where a Noiſe aroſe preſently afterwards. As I was upon Duty there, I went to ſee what was the Cauſe.—I heard Voices cry out, Murder! Murder! I ſaw thoſe Four Perſons dragging away Jaggernaut. I ſaid to them, At your Admiſſion you ſaid you were Syed Allee Cawn's Servants; it is extraordinary that you ſhould be dragging away his Dewan. I prevented them taking away Jaggernaut, and ſeparated Three of the Men.—Syed Allee Cawn told me not to uſe Violence, but to let the People go away. They ſaid they would ſit down a little till they were cool, and would go away after drinking a little Water. I brought them ſome Water and a Hooker.—They aſked me what Battalion I belonged to; whether Captain Cowe's? I ſaid Yes, it is very true, and I was detached to attend the Phouſdar.—They ſaid to me What do we care for the Captain, the Chief, or any of you; don't you know we are come with a Warrant from Mr. Peat? I deſired them to go away, and avoid raiſing a Diſpute. They ſaid, We will not go away; and one of them, whom I knew to be Doondy Cawn, Jemautdar, ſaid, The Perſon to whom I owe the Grudge, God has rid me of him, but I will not go away 'till I have the Life of him who has got his Place, and employs his Servants, or till I loſe my own Life.—I told him he was a great Man to talk in this Manner of taking and giving Lives. During Converſation of this Sort, a vaſt Number of People arrived, Thirty or Forty with Clubs and Arms, upon which Syed Allee Cawn's Jemautdar faſtened the Gate; for a long Time they attempted to break the Gate, but were not able; afterwards they went round the Wall, which they mounted, and began throwing Bricks. Syed Allee Cawn crying out againſt the Violence of this Attack, retired within the Houſe. Preſently Mr. Peat arrived with an additional Number of People —The Phouſdarry Attendants all ran away upon ſeeing an Engliſhman coming; and a great Effort being made at the Gate, it was burſt open; One Part fell upon my Foot and diſabled me.—Being aſked at this Time where Jaggernaut was, he replies, He went away with the People at the firſt Part of the Fray, and does not know what became of him.

Mr. Peat aſked me whoſe Sepoy I was? I told him the Company's Sepoy, and upon Duty with the Phouſdar.—Then why do you do ſuch Buſineſs as this, and why don't you obey me?—I told him, we Soldiers always obeyed our Captain, and what Duty he orders me upon I do; he is the only Engliſhman from whom I receive Orders I am here to obey the Phouſdar,—Muckuram. Allee Cawn, Father to the Phouſdar, came from within the Houſe, ſaluted Mr. Peat with a Salam, and informed him who he was, and remonſtrated with him againſt coming to attack his Houſe and diſgracing his Family, but told him he was ready to attend him if he had any Buſineſs.—Mr. Peat replied in Moors, Get away, (Jou Banchute) I don't care for you or your Son either, Muckuram repeated his Remonſtrances; but Mr. Peat paying no Regard to them, called to his People to attend him—Being aſked in this Part of the Evidence, whether nothing paſſed between Muckuram Allee Cawn and Mr. Peat, reſpecting Jaggernaut? he replies, That there was no Mention of the Name of Jaggernaut, only that Muckuram Allee Cawn, repeatedly ſaid, That this is my Houſe, where I, my Son, and my Family live.

Doondy Cawn came up, threw down his Turban, told Mr. Peat, Sir, I have taken up your Service, and thus I am expoſed to Diſgrace.—Mr. Peat ſaid nothing in Anſwer, but made a Motion with his Arm; immediately upon which Doondy Cawn, with his People, began puſhing and beating Muckuram Allee Cawn, and Doondy ran to a diſtant Part of the Encloſure, where a Servant of Muckuram Allee Cawn was ſtanding with a Sword in his Hand, and ſnatched it away from him, and came and ſtruck Muckuram Allee Cawn with it upon the Head; Blood immediately iſſued, and Muckuram Allee Cawn fell down; his Son-in-law, when he ſaw this, ran out from the Houſe, beating his Breaſt, crying out, They have killed my Father.—Mr. Peat aſked who he was? Doondy ſaid, It was ſomebody belonging to Muckuram Allee Cawn.—Mr. Peat then put One Hand behind him with a Piſtol in it, and called out at the ſame Time to his People to bring his Palanquin. Muckuram Allee Cawn was down, his Servant began to ſeize upon Doondy, when the Piſtol was diſcharged, and Meer Hoſſain, Muckuram Allee Cawn's Son-in-law, received the Ball in his Belly.

Queſt. Had Meer Hoſſain any Arms with him?
Anſw. I ſaw none.

Queſt. Did you ſee any body attempt to ſtrike Mr. Peat with any Weapon?
Anſw. I was near to Mr. Peat the whole Time; I ſaw no body attempt to ſtrike him.—I could not have ſtood by if ſuch Attempts had been made upon an Engliſh Gentleman, without defending him.

Queſt. Did Mr. Peat fire the Piſtol whilſt his Hand was behind his Back?
Anſw. He was near the Door, beckoning very eagerly to the People of his Palanquin with one Hand, whilſt his Piſtol was behind his Back in the other, and in that Poſition he diſcharged it.—He proceeds—Mr. Peat immediately got his Palanquin and went off. Doondy Cawn's Party began plundering the Out-houſes.—I aſked Syed Allee Cawn for his Orders; he told me and my Sepoys not to attempt any Violence, but to remain quiet Spectators of what paſſed, that we might afterwards bear witneſs to it; and he hoped he ſhould have Juſtice done him.—

Queſt. Did you ſee any Sword drawn during the whole of the Diſpute?
Anſw. I did not ſee any myſelf. I remained all the Time cloſe to Mr. Peat.

Monday, September 22d 1777, in Continuation.

The Board having ſat till Four o'Clock, and no Anſwer being received from Mr. Peat;

Agreed to adjourn.

Five o'Clock—A Board being again aſſembled, compoſed of the Chief, Mr. Shakeſpear and Mr. Hollond;

Read the following Anſwer, which Mr. Peat has written to their Letter.

To Charles William Boughton Rouſe, John Hogarth, William Shakeſpear, and William Hollond, Eſqrs.
Members of the Provincial Council, at Dacca.

Gentlemen,

I have been favoured with your Two Letters; and as you requeſt an Anſwer, I beg Leave to acquaint you, that I have not the leaſt Doubt that the legal Arreſt of Jaggernaut Dewan, and alſo his contemptuous tearing the Writ which authorized that Arreſt, and the Reſcue which he effected afterwards, notwithſtanding all my Efforts to prevent it, will all be fully and ſatisfactorily proved at a proper Time and Place.

If Jaggernaut Dewan was not thought an Object of the Juriſdiction of the Supreme Court by the Judge of that Court that ordered the Writ to iſſue againſt him, the Order for iſſuing the Writ would not have been given, nor could the Writ iſſue; and the reſiſting, or conſenting to Reſiſtance being made, to the Execution of the Proceſs iſſued out of His Majeſty's Court, is an Offence of a very high Nature.—I cannot accept of any other Security than what the Writ authorizes me to take, which in this Caſe muſt be the Bond of the Defendant himſelf, and Two other reſponſible Perſons, in the Sum of Ten thouſand Rupees; the Action is not for Debt, it is for an enormous perſonal Wrong. It is the Duty of the Sheriff to execute the Proceſs of the Court, whether ſuch Proceſs is right or not; and if the Defendant is not in the Juriſdiction of the Court, he ſhould plead it, and not reſiſt the Execution of the Proceſs, or endeavour to eſcape.—I know nothing of any armed Men being placed in any Part of the City for any Purpoſe whatſoever; and I beg Leave to aſſure the Board, that I have not, nor ſhall take any Steps, or adopt any Meaſures, in executing any Part of the Buſineſs incumbent upon me in my Station to tranſact, but what I know to be lawful and right; and further I beg Leave to acquaint the Board, that in caſe at any Time it ſhould be proper to requeſt their Aſſiſtance in executing any Proceſs from the Court, the ſureſt Way to preſerve the Peace of this City (which the Board expreſſes itſelf ſo much concerned for) will be, I preſume, to grant ſuch Aſſiſtance without Delay; and as the military Force under the Phouſdar are the Forces of the Company, the Gentlemen at the Board will, I hope, think proper to acquaint the Phouſdar, that ſuch Military ſhould not be employed in reſiſting legal Authority, as they very improperly did on Saturday laſt, during the Reſcue of Jaggernaut Dewan.

I am, Gentlemen,
Your moſt obedient, and
Humble Servant,
(Signed.) S. Peat,
Deputy Sheriff.

Dacca,
22d Sept. 1777.

Jaggernaut being called in, the firſt Paragraph of Mr. Peat's Letter is explained; and he is likewiſe informed that the Conſequences of ſuch Proceedings may be very ſerious to him, if he ſhould hereafter, upon a regular Hearing, be found liable to the Juriſdiction of the Supreme Court; and whether he be liable or not, the tearing of a Writ iſſued in the Name of the King of Great Britain, would at leaſt be diſreſpectful, and he ought to have ſubmitted himſelf to the Orders of the Provincial Phouſdar, or thoſe of the Naib Subah, without proceeding to ſuch Violence.

He replies with Aſſeverations, That he never ſaw the Writ; that he knows not the Subject of the Complaint, nor the Perſon complaining againſt him; on the contrary, that Doondy Cawn was repeatedly deſired to produce his Warrant, if he poſſeſſed any, and he never did, but endeavoured to drag him away to Mr. Peat's Houſe:—That he can ſafely ſwear to the Truth of what he now advances, and will ſtand to the Conſequences.

The Board remark, upon Mr. Peat's Intimations about keeping the Peace of the City, that if Mr. Peat, in quality of Sheriff's Deputy, had condeſcended to apply to the Chief for his Interpoſition, when he had Notice that his Bailiff was oppoſed in the Execution of the King's Writ, inſtead of going with a Rabble of his own to break open the Manſion of the Firſt Magiſtrate of the Province, the deſired Effect muſt in all Probability have been obtained, and Blood had not been ſhed.

Agreed, the following Letter be written to Mr. Peat.

To Mr. Peat.

Sir,

Jaggernaut being apprized of the firſt Paragraph of your Letter, which has juſt reached us, perſiſts in declaring, That he never once touched or ſaw the Warrant, nor knows who is the Complainant againſt him, nor the Subject of the Complaint, and is ready to make Affidavit to that Effect before yourſelf if you require it; he therefore denies the Arreſt. Nevertheleſs, if you will furniſh him with an authenticated Copy of the Writ, actually iſſued againct him, he will provide the Security required; however reſerving to himſelf the Power of pleading to the Juriſdiction, before any Hearing of the Charges to be laid againſt him.

Dacca,
September 21ſt, 77.

We are, Sir,
Your moſt obedient Servants, &c.

Read the following Reply from Mr. Peat.

To Charles Wm Boughton Rouſe, John Hogarth, John Shakeſpear, and William Hollond, Eſqrs. Members of the Provincial Council at Dacca.

Gentlemen,

I am this Inſtant favoured with your Letter, dated Half paſt Four o'Clock, September 21ſt, 1777, (which I preſume is a Miſtake of One Day, this being the 22d of September.) In regard to what Jaggernaut ſays about never ſeeing the Warrant, I do not think it right to take any Notice, being convinced of the Legality of the Arreſt; and his requeſting to have another Copy of the Writ ſerved, is a Piece of Chicanery, which I am ſure you, Gentlemen, do not expect me to acquieſce in.

I am, Gentlemen,
Your moſt obedient, and
humble Servant,
(Signed) S. Peat.

September 22d, 1777,
Half paſt Five o'Clock.

DACCA APPENDIX, N° 8.

The Board remark, with infinite Concern, that no ſatisfactory Accommodation is likely to be obtained by protracting a Correſpondence with Mr. Peat; and lament that he ſhould, in ſo important a Criſis, reject a Propoſition which tends to prevent farther Diſputes or Tumults; and that, if the Phouſdar ſhould think it his Duty to be equally pertinacious in ſupporting the Juriſdiction of his own Court, the Conſequences may be dreadful. The Board in this Caſe, conſidering themſelves on the one Hand as holding the Adminiſtration of the Province, and on the other as holding the higheſt Obedience and Veneration to His Majeſty's Court;

Reſolve, as the moſt effectual Mode which occurs to them of preſerving Tranquility, to depute Two of their own Members to attend the Deputy Sheriff, and act ultimately as they ſhall judge moſt Expedient, upon the following Grounds and Informations:

Firſt, They will require to be informed poſitively from Mr. Peat, whether he will purſue the Proceſs, if Bail is not given.

Secondly.—To know whether Mr. Peat means, by his Letter to the Board, a Refuſal to take Jaggernaut's Affidavit, That he never ſaw the Warrant, or is acquainted with the Name of the Complainant.

Thirdly.—Whether he will accept ſuch Bail from Jaggernaut as will exempt him from any further Purſuit of the Sheriff's Officers, and yet allow him to reſerve to himſelf a Denial of the Arreſt being legally made, and a full Plea againſt the Juriſdiction of the Court.

In ſhort, what are the only Terms he will accept.

If Mr. Peat refuſes any other than unconditional Bail, then to ſend for Jaggernaut to Mr. Peat's Houſe, to require of Mr. Peat, as Maſter on the Equity Side of the Court, to receive his Affidavit; and ſhould Mr. Peat, in quality of Deputy Sheriff, make him his Priſoner, inſtantly to ſign to any Bail Mr. Peat ſhall demand; declaring to him at the ſame Time, that neither the Arreſt nor Juriſdiction is acknowledged, proteſting verbally againſt him for all Coſts and Damages whatever, to every Party concerned.

Agreed, Mr. Shakeſpear and Mr. Hollond be the Members deputed.

Mr. Shakeſpear and Mr. Hollond being returned from Mr. Peat's, now deliver in the following Paper of Queſtions and Anſwers which paſſed between them and Mr. Peat, and even committed to writing upon the Spot.

1ſt. The Council requeſt to know poſitively from Mr. Peat, whether he will purſue the Proceſs, if Bail is not given?
Anſ. I cannot poſitively ſay; if I could take him without Reſiſtance, I ſhould think it my Duty.

2d. The Council requeſt to know, whether Mr. Peat means, by his Letter to them, a Refuſal to take Jaggernaut's Affidavit, That he never ſaw the Warrant, or is acquainted with the Name of the Complainant?
Anſ. I refuſe, becauſe I am a Party very materially concerned; next, becauſe I think he would be ſwearing a Falſhood if he denied the Arreſt, being convinced that the Arreſt was legally made.

3d. The Council requeſt to be informed, whether Mr. Peat thinks he can legally refuſe the Affidavit as a Maſter in Chancery?
Anſ. I think I can, for the Reaſons above aſſigned.

4th. The Council requeſt to know from Mr. Peat, whether he will accept ſuch Bail from Jaggernaut, as may exempt him from any further Purſuit of the Sheriff's Officers upon the preſent Proceſs, and yet allow him to reſerve to himſelf a Denial of the Arreſt being made, and a full Plea againſt the Juriſdiction of the Supreme Court?
Anſ. I will take Bail in the common Way as authoriſed by the Writ. The Defendant may of courſe plead to the Juriſdiction, if he chuſes; and if he objects to the Arreſt, he of courſe alſo has his Remedy, without any ſuch Reſervation being made in the Bond.

5th. In ſhort, what are the only Terms on which Mr. Peat will accept Bail?
Anſ. As I have before ſaid, in the Manner I am authoriſed by the Writ.

Meſſrs. Shakeſpear and Hollond next report, That finding Mr. Peat would not receive Bail with any Reſervation to Jaggernaut, and evaded giving them a poſitive Aſſurance not to purſue Jaggernaut upon the preſent Proceſs, they ſent to Jaggernaut. On Jaggernaut's Arrival, he required of Mr.

Peat to receive his Affidavit, "That he never ſaw the Writ — That he is to this Hour unacquainted with the Nature of the Complaint, or the Name of the Perſon complaining againſt him."

This being explained to Mr. Peat, he deſired Mr. Berree, his Writer, to interpret to Jaggernaut, That he would not receive his Affidavit — That he himſelf was a Party concerned, and that being convinced that the Writ had been legally ſerved, he would not receive his Affidavit, becauſe he was ſure he (Jaggernaut) would perjure himſelf.

Meſſrs. Shakeſpear and Hollond further report, That they then required to know what Bail muſt be given, demanding to ſee the Writ, or a Copy thereof.

Mr. Peat ſaid he had no Copy, and the original Writ was torn by Jaggernaut — That Mr. Peat then turned to his Book, wherein it was inſerted, to the beſt of their Recollection,

Khyroo Peyk } vers. { Jaggernaut Dewan, } for Treſpaſs and falſe Impriſonment, } Bail 10,000 R^s.

Peat and Wroughton, Att^ys.

The Bail Bond being prepared (after Meſſrs. Shakeſpear and Hollond had ineffectually made a tender of depoſiting the Amount in Caſh) Jaggernaut being bold to ſign Firſt, taking the Pen in his Hand ſaid, "I ſign this, and give this Security, to prevent Diſturbance, but as a Servant of the Nizamut, I diſallow the Juriſdiction of the Engliſh Court, and deny having ſeen any Writ, or knowing, till the preſent Time, who was the Complainant, or what was the Cauſe of Complaint."

Meſſrs. Shakeſpear and Hollond having alſo executed the Bail Bond, took their Leave, Jaggernaut being allowed to depart with them, Mr. Peat ſaying to his Servants, "You are to permit him to go, he is not now to be moleſted."

Ordered, Copy of the Proteſt which ſhall be executed, be entered in this Place.

P R O T E S T.

Whereas it has been declared, That a Writ of the Supreme Court of Judicature of Fort William in Bengal, was lawfully and regularly ſerved upon me Jaggernaut, Dewan of the Provincial Council of Phouſdarry, at Dacca, on Saturday the 20th of September, One thouſand Seven hundred and Seventy-ſeven; that I was accordingly arreſted in Manner, agreeable to the Forms and Rules required by the Laws of England; and that I did treat the ſaid Writ with Contempt, in tearing the ſame; and that I did by Violence break from the ſaid Arreſt, and effect a Reſcue.—And whereas, Mr. Samuel Peat, acting in quality of Sheriff's Deputy, did in conſequence demand me for his Priſoner; which might ſubject me to great Trouble and Diſgrace, or might expoſe my Life to Danger if I ſhould refuſe to ſubmit, as one Perſon has already been ſhot by him. Now, ſeeing that as Dewan to the Provincial Phouſdar, I am a Servant of the Nizamut, and the Servants of the Nizamut are not held liable to the Juriſdiction of the ſaid Supreme Court of Judicature; and that I do deny that ever I tore the Writ of the Supreme Court aforeſaid, or ever ſaw it, or know what Perſon had complained againſt me, or what was the Cauſe of Suit; and did therefore go to the Houſe of the ſaid Samuel Peat on Monday the 22d Day of September 1777, as to a Perſon publicly and notoriouſly in the Practice of adminiſtring Affidavits, which can be exhibited, and held valid in the ſaid Court, requiring he ſhould receive my Oath, That I never tore or ſaw the Writ, or know the Name of the Plaintiff, or the Subject of the Suit; and he did poſitively refuſe to adminiſter the ſame, demanding from me a Surety of Ten thouſand Current Rupees: And Surety was accordingly given in the Sum of Ten thouſand Current Rupees, That I ſhould appear in the ſaid Supreme Court on or before the 22d Day of October enſuing, to anſwer to the Suit of Khyroo Peyk; and did then, and not before, inſtruct his Servants, that I might go away without Moleſtation.

Be it therefore known, That I do, on Behalf of myſelf, and on the Behalf of the Nizamut, deny and diſallow the Juriſdiction of the ſaid Supreme Court; and do proteſt againſt the ſaid Samuel Peat for all Injuries, Coſts, and Damages, which may hereafter accrue to any of the Parties concerned, by Reaſon of his ſeveral Acts and Deeds done in the Premiſes.

Dated at Dacca the 22d Day of September 1777, Chriſtian Æra.

Agreed, We now Addreſs the Honourable Governor General and Council as follows, with compleat Copy of the foregoing.

True Extracts.

(Signed) H^{y}. Lodge,
Secretary.

Anſwer to Dacca.

The following Anſwer was ſent to the Provincial Council of Dacca.

To Mr. C. W. B. Rouſe, Chief, &c. Provincial Council of Revenue at Dacca.

Gentlemen,

We have received your Letter of the 22d inſtant, with the accompanying Extracts of your Proceedings.

We much commend the Prudence and Diſcretion which you have ſhewn in all your Proceedings reſpecting the late unfortunate Diſturbances created by Mr. Peat at Dacca, and approve of your having become Bail for the Appearance of Jaggernaut Dewan. We obſerve, however, ſome Parts of the Phouſdar's Declarations entered on your Proceedings, which make us apprehend, that he might ſtill be induced to oppoſe the Officers of the Supreme Court on any ſimilar Occaſion; we think it neceſſary therefore to prevent any further Conteſts of this Kind, by deſiring that you will recommend to the Officers of the Phouſdarry Court, when any Writs or Warrants ſhall be iſſued againſt them in future, to comply or ſubmit to them without Reſiſtance, but to give immediate Intimation thereof to us, through the Channel of the Board, that we may direct the Company's Counſel to plead to the Juriſdiction of the Court; as it will be impoſſible without ſuch a Proceſs, to aſcertain whether they are Objects of its Juriſdiction, or not. In all Caſes where Suits ſhall improperly have been commenced againſt them, they may be ſure of obtaining ſuch Satiſfaction or Damages as the Nature of the Caſe will admit.

We are,
Gentlemen, &c.

Fort William,
29th Sept^{r}. 1777.

The Governor General was requeſted to write the following Letter to the Naib Soubah:

To the Naib Soubah.

You are, doubtleſs, well informed of the Diſturbances which have lately happened at Dacca, on the Occaſion of a Warrant iſſued from the Supreme Court of Judicature to arreſt Jaggernaut, the Dewan of Syed Ally, the Phouſdar of that Place. As ſome Blood has been ſpilt in that unhappy Affair, to prevent more fatal Conſequences which might attend the Continuance of the ſame Conteſt, we have directed our Chief and Council at Dacca, to give this Advice to the Officers of the Nizamut, that they do not oppoſe, with Violence, the Execution of the Writs and Warrants of the Supreme Court; but giving the Security required by thoſe Orders, they plead to the Juriſdiction of the Supreme Court, which will certainly redreſs the Wrongs which they ſhall have ſuſtained, and award them proper Damages for the ſame, upon Proof being exhibited before the Court, that they are not proper Objects of its Juriſdiction. Impelled by Motives of Humanity, and a Deſire to preſerve the Peace of the Country, in a Caſe which would not admit of Delay, we have given this Counſel to the Dependants of your Juriſdiction; of which I think it incumbent upon me to give you this immediate Notice:—It is your Province to command. Having thus explained our Reaſons for the Part we have taken in this Buſineſs, I think it neceſſary to add, that I do not mean, by this Advice, to make any Declaration whatſoever concerning the reſpective Rights or Juriſdiction of the Nezamut or Supreme Court of Judicature.

DACCA APPENDIX, N^{o} 9.

Fort William, 14th October 1777.

At a Council;

PRESENT,

The Honourable Warren Haſtings, Governor General.

Richard Barwell and Philip Francis. } Eſquires.

Company's Att^{y} Lk. N^{o} 674.

READ the following Letter from the Company's Attorney at Law.

To Richard Sumner, Eſq. Secretary to the Honourable the Governor General and Council of Revenue.

Sir,

I herewith ſend you a Copy of the Caſe laid before Meſſrs. Newman and Lawrence, reſpecting Mr. Peat; alſo Copies of the Opinions ſeparately of thoſe Gentlemen reſpecting the ſame.

I am,
Sir, &c.

11 Oct^{r} 1777.

(Signed) Robert Jarrett,
Att^{y} to the Company.

Mr. Newman will pleaſe to peruſe the accompanying Proceedings from the Chief and Provincial Council of Dacca, together with the Letters to and from Mr. Samuel Peat, as alſo Five Letters of Demand, which appear in Mr. Peat's Hand-writing; all which tend to prove that he has, ever ſince his reſiding at Dacca, acted in the Threefold Capacity of Maſter Extraordinary in Equity, of Deputy Sheriff, and Attorney at Law. You will alſo pleaſe to obſerve, that in the very Suit, in the Execution of which Proceſs (as it is pretended) the Reſcue was effected, and the Accident happened, which is deſcribed in the Proceedings herewith ſent, it appears (by the Records of the Supreme Court) that Peat and Wroughton were the Attornies; ſo that there cannot be ſtronger Proofs of the above Facts than in the Caſe now before you. You are therefore deſired to peruſe the Papers attentively, and give me your Opinion as to the Legality of his ſo acting; and if his acting in theſe Capacities are illegal, what will be the moſt proper Mode to proceed in, in order to prevent the like Diſturbances in future; which ſeem to tend to the utter Subverſion of the Civil Government of the Provinces to create Anarchy and Confuſion, and effectually to prevent the Collection of the Company's Revenues, by putting the Officers employed by Government in bodily Fear of their Lives.

(Signed) Jarrett,
Att^{y} to the Hon^{ble} Company.

A true Copy, (Signed) Jarrett.

An exact Copy of this, together with a Copy of all the Proceedings, was laid before Mr. Lawrence at the ſame Time.——See their Opinions, N^{o} 1, and 2.

(Signed) R. Jarrett.

Mr. Newman's Opinion on Mr. Peat's Caſe.

It appears on the Papers laid before me, that in the very Cauſe which has occaſioned the preſent Queſtion on Mr. Peat's Conduct, he has exerciſed his Three Functions of Maſter Extraordinary, Attorney at Law, and Sheriff's Bailiff. In the firſt he takes the Affidavit of the perſonal Wrong alledged to be committed; in the Second, procures the Proceſs to be iſſued on that Affidavit; and in the Third, he effects the Arreſt, in which he is ſtated to be guilty of great Exceſſes.

Upon which I am aſked, as to the Compatibility of the Appointments, and the Legality of his Conduct, and if improper, as to the Mode of Redreſs.

The Firſt is an Appointment under His Majeſty's Charter, and may be compatibly exerciſed with the Second, as is uſual in England; but the Second and Third (the Attorney and Sheriff's Officer) are not only incompatible and againſt the Rules of Practice in all Courts, but in direct Violation of an Act of Parliament, made in the Reign of Henry the Vth, declaring, that a Sheriff's Officer ſhall not be an Attorney; conſequently ſuch Offices cannot be executed together. And in order to ſhew the ill Conſequences ariſing from its having been done, and to reſtrain the ſame in Future, an Affidavit ſhould be made by the Perſons in Calcutta acquainted with the Tranſactions alluded to; and on that Affidavit the Court ſhould be moved, that Mr. Peat ſhould anſwer the Charges againſt him, (or elſe an Attachment ſhould be applied for in the firſt Inſtance; but as Mr. Peat is an Officer of the Court, the firſt is the moſt uſual Way) and if in his Anſwer to the Affidavit he does not give ample Satisfaction, the Court will make ſuch Order againſt him as they in their Judgment will think he deſerves.

The injured Officers of the Phouſdarry, or any other Perſons at Dacca, affected by the illegal Meaſures purſued by Mr. Peat, or his Servants, may be relieved by Actions for Damages ſuſtained, or by a criminal Proſecution for the Aſſaults, and other Violences committed, in caſe they will apply for Redreſs to the Supreme Court, which may prevent a Repetition of the ſame Conduct in future.

(Signed) Chaˢ Newman,

11 Oct. 1777.

A true Copy.

(Signed) Robᵗ. Jarrett.

Mr. Lawrence's Opinion on Mr. Peat's Caſe.

I have peruſed and conſidered the Papers laid before me; from whence it appears that Mr. Peat acted as Attorney and Sheriff's Officer in the ſame Cauſe.

It appears alſo that he is a Maſter Extraordinary, or Commiſſioner for taking Affidavits.

With reſpect to the firſt Point, I am clearly of Opinion, they are incompatible Employments, and that, in acting in the double Capacity, as Attorney and Sheriff's Officer, he has offended againſt Stat. 1ſt. Hen. Vth. Cap. 4th.

With reſpect to the Second Point; it is common for Attornies, in all the Counties in England, to have Commiſſions to take Affidavits, and the Supreme Court knew Peat was an Attorney, when they gave him ſuch Commiſſion.

I am of Opinion, that the Party aggrieved ſhould ſtate to the Court, by Affidavit, the Circumſtances of his acting as Attorney and Sheriff's Officer in the ſame Cauſe; and move, that Peat may anſwer the Matters contained in the Affidavits; and the Court, in caſe he does not acquit himſelf, by his Anſwer upon Oath, will proceed to puniſh him according to his Demerits, by that ſummary Authority every Court has over its own Officers.

With reſpect to the Riot and Affray; any Party aggrieved may prefer his Indictment, either againſt Peat himſelf, or againſt any of his Followers, or both; and the Counſel for the Proſecution, in caſe a Criminal Proſecution ſhould be commenced, will adapt the Indictment to the Circumſtances of the particular Caſes they are meant to apply to. And I ground this, my Opinion, ſolely upon the Facts as they ſtand repreſented upon ſuch Papers as have been laid before me.

(Signed) W. C. Lawrence.

A true Copy.

(Signed) R. Jarrett.

Board's Minute thereon.

From the Records of the Supreme Court it will appear, whether Mr. Peat did act as an Attorney and Sheriff's Bailiff in the ſame Cauſe, or not, by the Application for the Writ as Attorney, and the Return of the Writ as Sheriff's Bailiff. If it ſhould ſo appear, that the Attorney be directed, on thoſe Grounds, to move the Court, that Mr. Peat ſhould anſwer the Charge of having acted in the double Capacity of Attorney and Sheriff's Bailiff in the ſame Cauſe, and that the Court will be pleaſed to give ſuch Order thereupon as they ſhall think fit.

Orders to the Attorney.

Ordered, That the Attorney to the Company be written to, to the above Effect.

Copies of Opinions ſent to Dacca.

Agreed, That Copies of the Opinions of the Company's Counſel be tranſmitted to the Chief and Council of Dacca, both for their own Information, and that they may communicate to the Phouſdar ſuch Parts of them as relate to him, and the other Perſons who may have been Sufferers in the late Aſſault ſaid to have been made upon his Houſe: That they be directed likewiſe to ſend down the Proofs and Evidences of Mr. Peat's having acted in the Capacities of Attorney and Sheriff's Officer, in ſuch Inſtances as have come to their Knowledge.

Dacca Letters.

Read the following Letters from the Provincial Council of Dacca.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council, Fort William.

Honourable Sir, and Gentlemen,

We have been honoured with your Commands of the 24th, and are happy our Conduct meets with your Approval.

We ſhall, without Loſs of Time, comply with your Commands, for taking the Depoſitions of the ſeveral Perſons preſent at the Fray. As to my Offer of Aſſiſtance to the Sheriff's Officer, for the Apprehenſion of Jaggernaut, his Surrender, and the Acceptance of Bail by Mr. Peat, the Sheriff's Deputy, renders it ſuperfluous; and, ſhould even a new Proceſs iſſue againſt Jaggernaut, and Mr. Peat require our Aid, it would be now of no Avail, as you will find from our former Advices, that Jaggernaut, after having given Bail, left Dacca ſome Days ago.

We have the Honour to be,
Honourable Sir, and Gentlemen, &c.
(Signed)
C. W. Boughton Rouſe,
J. Hogarth,
Jn. Shakeſpear,
W. Hollond.

Dacca,
Saturday Morning,
27th September, 1777.

Lr. Nº 676.

To the Honourable Warren Haſtings, Eſquire, Governor General and Council, Fort William.

Honourable Sir, and Gentlemen,

We beg Leave to encloſe you Three Depoſitions, taken agreeably to your Orders; the others will wait on you as expeditiouſly as poſſible.

We have the Honour to be, with Reſpect,
Honourable Sir, and Gentlemen, &c.
(Signed)
C. W. Boughton Rouſe,
J. Shakeſpear,
Wm. Hollond.

Dacca,
29th September, 1777.

Extract from the Dacca Proceedings of the 29th September, 1777.

Meſſrs J. Shakeſpear, and Wm Hollond, now lay before the Board the Depoſitions taken on Saturday Night laſt, in conſequence of the Orders of the Honourable Governor General and Council.

Meſſrs. J. Shakeſpear and Hollond being arrived at the Houſe of Syed Allee Cawn, the Provincial Phouſdar, at about Half paſt Eight o'Clock in the Evening of Saturday the 27th September 1777.

1777, proceed to take the following Depoſitions. Meer Hoſſain Allee being duly ſworn upon the Khoran, according to the Cuſtoms of his Religion, depoſes,—On Saturday, the 17th of Shawbaun, in the 1191 Year of the Hegeira (anſwer to September 20th, 1777) in the Afternoon, I was in the inner Apartments, and heard there was a Fray. I then went out into the outer Apartment: I ſaw Doondy ſetting in the Compound. I went and ſat by Syed Allee Cawn, the Phouſdar. Doondy was told repeatedly to depart. Why did he ſit there? He refuſed. Syed Allee Cawn had the Door ſhut. Soon after Doondy's People without made a Noiſe at the outer Door, attempting to break it open, ſcaled the Wall, and began throwing Bricks into the open Hall, where Syed Allee Cawn was ſitting, which wounded ſome of the People who were ſtanding there.

Every Body deſired Syed Allee Cawn to remove himſelf out of the way of the Bricks; he went into the other Room; I was ſtanding there near him, with my Father, and about Twenty five People, Servants and others; about Two Ghurries afterwards I heard that a Gentleman (whoſe Name I have ſince learned is Mr. Peat) was arrived. Syed Allee Cawn ſent to call us his Friends, who were in the outer Room, deſiring us to come from thence, leaſt a Quarrel ſhould enſue; I, with Mookeram, Allee Cawn, my Father-in-law, Khodadaut Khan, and others, were ſtanding in the outer Room; ſome went, but Mookeram Allee Cawn, Shaw Jervaud Ally, and Khodadaut Khawn, and Meer Ahmud Allee, ſome of the Servants, and I, remained there. Mr. Peat ſoon after arrived; he broke the Door open, and it fell down. Mr. Peat entered with a Number of People, armed with Sticks and Bricks, Tulwars, Pikes, Spears, Hircarrahs, Sticks armed at the Points, and beating and ſtriking every Body as they paſſed on. Seeing this, I was apprehenſive they might proceed on to the Zenana, I therefore reſolved to go and guard that paſſage; and, if they came there, to ſacrifice my own Life, or ſtop them. I took my ſtand in the Paſſage which leads to the Zenana, and therefore ſaw not who was beat or wounded without. I heard ſomebody crying from without, They are ſeizing and carrying away Khodadaut Cawn and Shawjervaund Ally; I went to look out; upon this I ſaw Mr. Peat in the Middle of the Compound, and Mookeram Ally Khawn, my Father-in-law, proceeding forward to receive him in a friendly Manner; when he got near him, Mr. Peat ſtopped, they ſeemed to be converſing, when I ſaw Doondy run to Bekat Mookeram Allee Cawn. Kiſmautger, who was holding his Maſter's Syef (or long Sword) gave him (Bekat) a Blow with his Hand, ſnatched the Sword from him, and run up to Mookeram Allee Cawn, my Father-in-law, and ſtruck him over the Head; he cut his Head, the Blood iſſued from it; Mookeram Allee Cawn put his Head on one Side; Two or Three other Blows were beſides given him with, Sticks (Latties) from ſome unknown Hand, and at length he fell. Seeing this, I ran to the Place with a view of ſaving my Father; I had in my Hand a Tulwar, but it was then ſheathed. Seeing me run up, I was ſurrounded by a Number of People; in the Struggle, ſome of the Mob laid hold of the End of the Tulwar to wrench it from me. I kept my hold, and the Sheath was of courſe drawn off. Both my Arms were confined by this Time by many of the People. Mr. Peat fired a Piſtol, the Ball ſtruck me in the Belly, and I fell, a Giddineſs having ſeized me; immediately many People ruſhed upon me, and when down I felt many ſevere Blows with Sticks upon the Shoulders, Arms, Back, Legs, and every Part of my Body, of which I ſtill retain the Marks. (He ſhews very ſevere Bruiſes upon his Back, Shoulders, and Knees, covered with Dreſſings).

Depoſition of Mookeram Allee Cawn.

Mookeram Allee Cawn being duly ſworn upon the Khoran, depoſes: On Saturday the 17th of the Month of Shawbaun, in the Year of the Hegeira 1191, in the 19th Year of the King Shaw Allum's Reign, from about Nine o'Clock in the Morning till Twelve I had been ſitting with my Son in the open Hall, who was tranſacting various Buſineſſes belonging to his Office—hearing Repreſentations and giving Anſwers, and ſo on. About that Time Doondy came, and with him Two other Perſons; he ſaid to Jaggernaut, taking him by the Cummerband, Get up, get up. I aſked, and Syed Allee Cawn alſo aſked, whether he had brought any Warrant or Feeſh?—(On being aſked, what he means by Feeſh? explains it, by repeating Feſh or *Fees*[*]; and further, that the Papers coming from Calcutta, ſerved through Mr. Peat, are called throughout the City, "Warrants," Mr. Peat's own Notes are called "Feeſh.")—I know what a Warrant is by the Seal, for I have had one ſerved upon me before, and I was carried before Lord Impey.

He (Doondy) made no other Anſwer but, "We ſhall ſee Two Gurries hence, whether I have or not." The Queſtion was repeatedly put to him; and I told him, If you will produce a Warrant, produce it, and you may take away Jaggernaut. He producing no Paper whatever, Jaggernaut continued to ſit where he was. About Two Gurries afterwards, Five more Men came, making in all Seven, beſides Doondy. I muſt obſerve, that during this Period, I took particular Pains to obſerve if I could ſee a Warrant concealed in either of their Hands, but I could not, and of this, I now give my Oath; and knowing a Warrant and underſtanding what it is. If neceſſary, I am ready to go and make Oath of this before Lord Impey at Calcutta. There was nothing in his hand: a Warrant has a large Seal, and can hardly be contained in a cloſe Hand; but his Hand was not ever cloſed.—Well, theſe Five additional Men being arrived, Doondy ſaid again to Jaggernaut, Get up (Belly Choote) get up; gave him much Abuſe; one Man took him by the Neck, one by each Arm; they all laid hold of him, and dragged him to the Foot of the Staircaſe. I ſaid nothing further at that Time, nor did Syed Allee Cawn. Syed Allee Cawn ſat ſtill, I roſe, and walked to the Top of the Steps; one of the Sepoys ſtationed with the Phouſdar, ſtopped them, and ſaid, you are carrying away the Peſhkar of the Phouſdarry; upon what, if you have any Warrant ſhew it, without a Warrant I cannot permit him to be taken away. Doondy abuſed the Sepoy, and ſpoke ill of the Gentlemen. The Sepoy irritated, gave Doondy a ſlap on the Face. Then Doondy drew his Cuttar or Poniard from his Waiſt, and made a Blow at the Sepoy. The Sepoy caught the Poniard in his Hand, and it cut him; he wrenched it from Doondy; the reſt of the Guard at the Gate ſeeing the Scuffle, ran up; the Confuſion increaſed, and, in the midſt of it, Jaggernaut ran away, and ſlipped through a Door at the Back of the Compound. I came down the Steps and tried to put an End to the Diſpute. I ſooth'd Doondy and the Sepoys by turns; begged them for God's Sake to be quiet; repeatedly told Doondy, that if he would but ſhew his Warrant, I myſelf would bring Jaggernaut and give him into his Charge; he anſwered me only by Abuſe, and produced no Warrant. It was not only I, but ſeveral other People of Credit, repeatedly deſired him to produce his Warrant; but he would not.

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[*] Probably derived from the Fees paid by the Defendant, if he admits the Claim upon the Lawyer's Note ſimply, without ſtanding Suit.

Doondy then went, ſat himſelf down at the Place where the Sepoys remain, and he ſent one of his People to Mr. Peat his Maſter, telling him, Go, tell Mr. Peat they have beat me, and reſcued my Aſſamy from out of my Hands.

I returned to the open Hall, and ſat down by Syed Ally Khan. Syed Ally Khan ſent Word repeatedly (Six or Seven Times) by the Perſons ſtanding round him to Doondy; deſired him to go away, and not to make further Diſturbance there; that Jaggernaut was gone to his own Houſe, go there and make your Diſturbance; however he did not ſtir, but replied by Abuſe and Threats.

About Two Ghurries after, it was reported a Crowd was gathered and advancing to the Houſe. Syed Ally directed them to ſhut the outer Door. The outer Door was ſhut, Doondy ſtill remaining within, with One or Two of his People, as he refuſed to go away: The People who were without began endeavouring to force the Door, throwing Bricks againſt it; finding they could not break it, Five or Six ſcaled the Wall, and from thence threw Bricks into the Dewan Connah, where we were all ſitting.

I then deſired Syed Ally Khan to go away, and take with him all the young Men, who it was probable might be exaſperated. I continued to ſit in the Dewan Khonnah with Khodah Cawn, Shawjervaud Allee, and Meer Mahmud Allee, Hoſſain Cootty, with ſome Servants and others.

Syed Allee and the others, retired within. Soon after it was reported Mr. Peat is come! Mr. Peat is come! An extraordinary Effort was then made at the Door; it gave, broke, and fell in. Mr. Peat entered with a Mob of Hircarrahs, Peons, Slaves, Dandees, and all Kinds of Rabble, armed with Sticks, Spears, Swords, and other offenſive Weapons, beating, ſtriking, and knocking, all the People as they ruſhed in. I had a Syef (or long Sword) in my Hand, which I gave into the Hands of one of my Slaves, and advanced ſingly towards Mr. Peat, ſalammed to him; and taking him by the Hand, I deſired him to walk in and ſit down; that there was no Diſpute with me; no Warrant upon me; that the Diſpute was with Jaggernaut:—Then Mr. Peat ſaid (Tum Kon) Who are you? I replied, I am the Father of Syed Allee Cawn:—Then Doondy ſaid, Yes, this is Mookeram Allee Cawn, the Maſter of the Houſe; then Mr. Peat ſaid, Give me Jaggernaut? I replied, Be pleaſed to walk in and ſit down, I will ſend for Jaggernaut, and bring him before you; upon this, he looked in my Face, and appeared ſatisfied, and I thought he intended to come into the Houſe with me, when I received a Stroke over my Head, but I did not ſee from what Hand, as the Stroke was given from behind me; perceiving the Blood running down my Face, and being ſingle in the midſt of ſo many, I puſhed on towards the Houſe; whilſt I was running, I received Five or Six Strokes from Sticks and Bamboes, which brought me down upon my Hams before I reached the Houſe. At that Inſtant my Son-in-Law, Meer Hoſſain Allee, came running to my Aſſiſtance from the Side Door that leads to the Zenana; when the People who were beating and ſurrounding me, quitted me, and ſeized him, and hawling him towards Mr. Peat, who inſtantly fired a Piſtol, the Ball of which hitting him in the Belly, Mr. Peat ran to his Palanquin, ſaying, That there was a Man killed, or ſome ſuch Words, to the Bearers, and hurried away as faſt as he could; his People, who had wrenched the Tulwar out of Meer Hoſſain Ally's Hand, gave him ſeveral blows upon the Back and Shoulders with Sticks, and followed their Maſter.

Queſt. Are you perfectly certain that Jaggernaut made his Eſcape, and run off at the Time the Diſpute happened between Doondy and the Sepoys?	*Anſ.* Yes; I am perfectly ſure of it. There were many People ſcuffling together, and Jaggernaut ſlipt away. I ſaw him paſs out of another Door.
Queſt. What Door do you mean?	*Anſ.* I apprehend at the Time, and have ſince heard, that he went out of the Back Door of the Compound. It is ſituated behind the Houſe. I could not ſee him go out of the Door; but I ſaw him go off at one Side of the Houſe, which leads to that Door.
Queſt. From the Time of Jaggernaut's going away in this Manner, till the Arrival of Mr. Peat, did you ſee Jaggernaut?	*Anſ.* No, I did not ſee him.
Queſt. Was he in the Houſe, or any of the Houſes near it, when Mr. Peat arrived?	*Anſ.* Not that I know of; I heard, and believe he was gone away. If he was concealed in any of the Buildings, it is without my Knowledge.
Queſt. Did you ſee Jaggernaut again in the Courſe of that Day?	*Anſ.* No, not till the Monday.
Queſt. Can you poſitively aſſert, that Jaggernaut had no Concern in any Fray that happened after he made his Eſcape, during the Diſpute between the Sepoys and Doondy?	*Anſ.* Yes, I can; and do repeat, that at the Time of his going away at the Time mentioned, he had no Concern in any Fray that happened afterwards.
Queſt. If he had been concerned in any of them, do you think you muſt neceſſarily have ſeen him?	*Anſ.* Yes; I was either in the Dewan Konnah or Compound from the firſt Commencement of the Diſpute till the Concluſion of it.

Shajewaud Allee, Fakhier, being next required to give his Depoſition, replies, That he is a Reſident of another Country; he interferes not in the Quarrels of Men; he is a Fakhier, and his Employment is to pray to God. It is true he has been wounded, but he bears no Ill-will or Malice to any one. God will reward as he ſhall think proper, the Perſon who inflicted an unmerited Puniſhment upon a harmleſs and defenceleſs Man, and will doubtleſs have Juſtice; but he muſt decline giving Evidence in any Diſpute between Man and Man.

(Signed) J. Shakeſpear,
W^{m} Hollond.

Some of the People preſent at the late Fray at the Phouſdar's Houſe, now attending, the Board proceed to take their Evidence.

Miza Calloo, being duly ſworn, depoſes, I went to Syed Allee Cawn's Houſe to pay him a Viſit on the Occaſion of his Return from Moorſhedabad, on laſt Saturday Sevennight, between 10 and 11 o'Clock; I was ſitting in his Dewan Khonnah, with Syed Allee Cawn, Mookeram Ally Cawn, and many others; Jaggernaut was alſo there: A little after the Time of Noon, Doondy, a Man whoſe Perſon I knew (he being the Nephew of Shookroolloo) Jemautdar, came there; Jaggernaut was ſitting with his Face towards the South, when Doondy came and ſat cloſe to Jaggernaut, and Face to Face, puſhing him with his Hand cloſed, repeatedly told him to get up. There were Two other Perſons with Doondy, who continued ſtanding. Jaggernaut ſaid to Doondy, If you have got any Warrant, produce it; why do you affront and diſgrace me?

Queſt. Had Doondy ſaid any thing about a Warrant?
Anſ. No; he had done nothing more than puſhing him, telling him to get up.—Proceeds.

At the ſame Time Syed Allee Cawn told Doondy, that Jaggernaut was the Dewan of the Phouſdarry, and deſired he would not affront him, but produce his Warrant, if he really had any; to this Doondy anſwered only, It will appear Two Ghurries hence. At this Time Four or Five other Perſons came, and having ſeized Jaggernaut, conformably to Orders given them by Doondy, in abuſive Language dragged him down the Steps into the Compound, Six or Seven Yards from the Building; after that, a Scuffle enſued between the Havildar at the outer Gate and Doondy, on which Jaggernaut eſcaped, and the Havildar took Doondy to the Gate. What paſſed between them I do not know, nor where Jaggernaut went; I remained ſitting in the Dewan Khonnah. About Three

Ghurries after that (I ſpeak by Gueſs) it was cried out, that the People are coming, People are coming. Upon this the outer Gate was faſtened; Bricks were thrown into the Houſe from over the Wall, and there was a great Noiſe of beating and thumping againſt the Gate; Three or Four Men ſcaled the Wall, and began throwing Bricks from thence; but upon a Noiſe being made from the neighbouring Houſes, they quitted the Wall; about One Ghurry more, there was a Cry of Sahaub Outah, the Gentleman is coming! the Gentleman is coming!—The Door gave Way, and then fell in; the Gentleman came in, attended by a great Number of People, ſome of whom armed with Clubs, Sticks, &c. The People of the Houſe aſked Mookeram Allee Cawn, if they ſhould go? when he forbid them, and went himſelf; ſaying (as I was ſtanding cloſe to his Side) I will go and invite the Gentleman to ſit down; ſo he went towards him unattended; and ſomething paſſed between them, which, being at ſome Diſtance, I could not hear diſtinctly; but I think Mookeram Allee Cawn was ſaying to him, Come, Sir; and taking him by the Hand, when Doondy wrenched a Syef (or long Sword) out of the Hands of one of the Slaves of Mookeram Allee Cawn, who were ſtanding Six or Seven Yards Diſtance from Mookeram Allee Cawn, and gave Mookeram Allee Cawn a Blow with it on the Head, from behind his Back; having received the Blow, he endeavoured to get away, when Meer Hoſſain, his Son in Law, who had remained at the Door of the Zenana, came running towards him, but was ſtopped in his Way by ſeveral People, who laid hold of him; and immediately I ſaw the Gentleman's Arm move, and heard the Report of a Piſtol; he himſelf inſtantly went away; I remained at the Houſe, aſſiſting Mookeram Allee Cawn, and Meer Hoſſain, who had been wounded, and ſtayed there till the Doctor came. There were other Perſons who received Wounds in the Fray, but I did not ſee how they happened.

Queſ. Did you ſee Meer Hoſſain come out from the Side Door of the Compound?	*Anſ.* Yes: I did.
Queſ. Had he any Arms in his Hands?	*Anſ.* Yes, he had a Tulwar.
Queſ. Had he any Arms beſides a Tulwar?	*Anſ.* I did not perceive any Thing elſe: Whether he had a Shield or not, I did not obſerve.
Queſ. Was his Tulwar drawn?	*Anſ.* No; it was in the Scabbard?
Queſ. Was it at any Time drawn from the Time he came out, till the Time he received the Wound from the Piſtol?	*Anſ.* No; it was ſnatched out of his Hands.
Queſ. Did he attempt to draw it?	*Anſ.* No: I did not ſee him attempt to draw it. He was ſtopped as he was running towards his Father-in-Law; and while they were drawing him forwards he received the Wound.
Queſt. In what Manner did he carry the Sword?	*Anſ.* He was carrying it in one Hand, as People uſually carry a Sword; not uplifted as in an Attitude of Striking.
Queſ. Can you remember at what Diſtance he was from Mr. Peat when he received the Wound?	*Anſ.* About Five or Seven Cuvids, or rather leſs than that.
Queſ. Did he, from what you ſaw, ſeem inclined to attack any particular Perſon when he came out from the Zenana?	*Anſ.* No; he did not ſeem to aim at any Perſon.
Queſ. When did you ſee Jaggernaut next, after he made his Eſcape, upon the Diſpute happening between the Peons and the Sepoys?	*Anſ.* I have not ſeen him ever ſince that Time.
Queſ. Had he any thing to do in the latter Part of the Fray, when Mookeram Ally Cawn was wounded, and Meer Ally ſhot?	*Anſ.* No; he was not there at that Time; he had gone off long before, and did not make his Appearance afterwards.
Queſ. If Jaggernaut had been there, do you imagine you muſt have ſeen him?	*Anſ.* Moſt certainly I muſt have ſeen him.

A true Extract.

(Signed) H^{y} Lodge,
Sec^{y}.

DACCA APPENDIX, No 9.

To the Honourable Warren Haſtings, Eſquire, Governor General, and Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,

We are duly honoured with your Commands of the 20th Ultimo, and have made known to the Phouſdar the Sentiments you are pleaſed to expreſs, on the Subject of yielding Obedience to Writs, which may hereafter be iſſued from the Supreme Court, againſt any of the Officers of his Department. He perſiſts in declaring, that upon this Occaſion no Warrant was ſhewn; and if there had, that the Diſturbance would never have happened. Without having heard all the Evidence which may be brought by every Party, it is certain, that no deciſive Judgment can be formed; but we are at leaſt juſtified in remarking, that all the Depoſitions we have taken in purſuance of your Orders, with a Minuteneſs of Enquiry which might lead to an impartial Diſcovery of Truth, there ariſes not the ſmalleſt Ground of Belief, that any Writ of the Supreme Court was produced; much leſs that it was torn, and treated with Contempt by Jaggernaut, or any other Servant of the Phouſdarry.

How far this Inference is fairly drawn, you, Gentlemen, will judge, from a Peruſal of the Depoſitions themſelves, all taken upon Oath. Thoſe of Mookeram Allee Khawn, the Father, and Meer Hoſſain, Brother-in-law of the Phouſdar, have already been ſent you; thoſe of Khajah Shums ul Deen, Ammer Sing, Meer Sheer Ally, Memum Beg, Meer Mahmed Tucky, Mirza Jaffier, Bekah, Servant of Mookeram Ally Khawn, Muſſetah Cawn, Colly Churn Sepoy, and Zorawer Sing Sepoy, many of them Men of Character in the Place, who happened to be preſent at different Periods of the Fray, attend you with our preſent Addreſs. We have likewiſe taken the neceſſary Meaſures for diſpatching the Witneſſes to Calcutta.

We herewith ſubmit to your Peruſal, Copy of a Letter addreſſed by Mr. Peat to our Chief, on the firſt Inſtant, at Night, with the Anſwer written to it. The Report delivered in by the Surgeons, being ſuch as afforded great Probability of Meer Hoſſain's Recovery from his Wounds, we conſented to withdraw the Sepoys from Mr. Peat's Houſe. Mr. Juſtice Chambers having arrived here, in his Way from Chittagong to the Preſidency, our Chief aſked him, Whether he would be pleaſed to interfere in the Matter judicially; and expreſſed his Wiſhes that he would do ſo: But this he choſe rather to decline; requeſting only, that the Surgeons might be examined by him upon Oath, in caſe the Council ſhould not think themſelves authorized by their Report to remove the Guard from Mr. Peat's Houſe.

We have the Honour to be, with Reſpect,
Honourable Sir, and Gentlemen,

Dacca,
2d October 1777.

(Signed) C. W. Boughton Rouſe,
J. Shakeſpear.

(Encloſure.)

Depoſition of Khauja Shums ul Deen, taken at Dacca the 30th September 1777, before Charles William Boughton Rouſe, Eſquire, Chief, and Mr. William Hollond.

Khauja Shums ul Deen, being duly ſworn upon the Khoran, conformably to the Cuſtoms of his Religion, depoſes,

About Noon on the Day this Diſpute happened, being Saturday, I was ſitting at the Houſe of Ramjaun Beg, when I heard that there was a Diſturbance at Syed Ally Cawn's Houſe, and therefore went there myſelf about one Gurry afterwards; when I arrived, I ſaw Syed Ally ſitting in the Dewan Khannah; he deſired me to go and ſpeak to Doondy, and diſſuade him from making a Diſturbance. Doondy was at that Time ſitting at the Guard-Houſe. I had no ſooner ſpoke to him, than he began abuſing both Syed Ally and his Father, Muckram Ally Khawn. I found it needleſs to talk to a Man who uſed ſuch a Style, thinking it had the Air of Folly; and retired to the Houſe. At this Time about Fifteen People came to the Door, but were prevented from entering by Syed Ally Khawn's People, who faſtened it. For ſome Time they were beating at the Door; they broke a Part of it, but it did not fall; many alſo got upon the Wall, and threw Bricks into the Houſe. About a Ghurry after this, News came, that the Gentleman was arrived; immediately the Door was forced, and fell in. The People ruſhed in, ſtriking and beating every Perſon in their Way. Syed Ally Cawn forbid his Servants making any Uſe of their Arms. I, with ſome others that were there, retired on one Side, and did not ſee the Particulars that happened afterwards. I only heard them.

Queſt. Did you, whilſt you was at Syed Ally Cawn's Houſe, ſee Jaggernaut there?
R. No, I did not ſee him.

Queſt. Did you ſee Mr. Peat, when he came into the Compound?
R. I ſaw the Crowd that came in from the Place to which I returned—I did not ſee Mr. Peat.

Queſt. Did you hear, or do you know, where Jaggernaut was when you were at Syed Ally's Houſe?
R. No I neither heard nor know.

Queſt. When you arrived, what did you underſtand to be the Cauſe of this Diſturbance.
R. I did enquire when I arrived what was the Cauſe; and what I learnt was this, That Doondy cloſing his Hand had ſtruck Jaggernaut upon the Shoulder, and told him to get up and follow him; that Syed Ally had aſked him for what Purpoſe he came, and whether he had any Warrant, but could get no Anſwer from him.—I likewiſe aſked ſeveral others who were there, if they had ſeen a Warrant or other Paper, and they all ſaid that they had not.—I heard alſo that the Sepoys prevented Doondy from carrying away Jaggernaut; what afterwards became of him I know not.

A True Copy.

(Signed) H^{y}. L. Sec^{y}.

Depoſitions of Meer Sheer Ally, taken at Dacca the 30th September 1777, before Ch^{s} W^{m} Boughton Rouſe, Eſquire, Chief, and Mr. W^{m} Hollond.

Meer Sheer Ally, an Inhabitant of the City of Dacca, and not engaged in any Employ, being duly ſworn agreeably to the Cuſtom of his Religion, depoſes: The Day that the Fray happened, I do not now remember what Day it was, I went to the Houſe of Meer Syed Ally Khawn, about One Par and Half of the Day (about Ten o'Clock) to pay to him a Viſit; about Two Gurries after my Arrival, Doondy came, and ſtriking Jaggernaut upon the Shoulder, and afterwards pulling him told him to get up. Jaggernaut replied, You that order me to get up, from whence do you come, and who are you? who ſent you? if you have a Warrant let me ſee it, let me know who has complained againſt me?—But he only anſwered, Get up, follow me, it is Mr. Peat's Order.—Jaggernaut continued to ſay, If you have any Warrant ſhew it to me, and I will certainly go with you.—Upon this he turned about, ſaying, Very well, wait a little, you will ſee preſently. Syed Ally Khawn and others alſo ſpoke to him in a civil Manner; told him, if he had a Warrant to produce it, that Jaggernaut could not preſume to oppoſe a Warrant if there really was one. But to all this, without giving any Anſwer, he continued to uſe the fouleſt Language, at the ſame Time lifting up his Hand as if he meant to ſtrike Jaggernaut unleſs he got up. Afterwards, Six or Seven of his Men having arrived, he directed them to ſeize Jaggernaut; which they did, and dragged him down the Steps, thumping and beating him, and abuſing his Family. Here the Sentry interfered, and Doondy having taken a Cuttaur that was worn by one of his People, drew it, and attempted to ſtrike one of the Sepoys, who received a Wound in his Hand—A Scuffle enſued—The Havildar then came up, and aſked Doondy from whence he came, and who ſent him? Doondy replied, he came from Mr. Peat.—The Havildar aſked him, whether he had any Warrant or Pheeſh? (Note)—Doondy then ſtretching his Arm, ſaid, he would teach him and his Maſter too by what Authority he came.—During the Confuſion, Jaggernaut run away, but by what Door he eſcaped, or which Way he went, I do not know—and the Sepoy deſired Doondy to go Home; but this he refuſed, and went and ſat down in the Guard Room, and tore all his Cloaths, and told the Sepoy that he had confined him. I likewiſe went by Syed Ally Khawn's Deſire, and told him to go Home, but he perſiſted in refuſing. About Two Gurries afterwards a Number of People aſſembled at the Door and attempted to force it open, others mounted the Wall, among whom there was Fringy a Black ſtout Man, and flung Bricks into the Houſe. Syed Ally Khawn then retired to the inner Apartments. Muckram Ally Khawn, myſelf, and others, remained without, and remonſtrated with thoſe that were throwing Bricks; to which they replied, Open the Door, give us Jaggernaut!—Afterwards the Noiſe and Diſpute ſeemed to ſubſide, and all thoſe that were upon the Wall went to the Door. In about a Gurry after there was a cry that Mr. Peat was coming. He ſoon arrived, and his People immediately broke the Door, and it fell in—Ten or Twelve Men came before him armed with Sticks, Whips, and Clubs, knocking down every Body before them, and in the Hand of one Man there was a Sword. I then went and hid myſelf in an Inner Apartment where the Apparatus of the Mahometan Feſtivals is kept; I covered myſelf there as well as I could, but they purſued and beat me.

Queſt. You ſay there was a Sword in the Hands of Mr. Peat's Servants?
R. Yes, I did, but I was at a great Diſtance.

Queſt. Was it drawn or in the Scabbard.
R. It was in the Scabbard?

Queſt. Did you ſee the Quarrel that happened after Mr. Peat's Arrival?
R. No, I did not; through Fear I hid myſelf; I heard the Exploſion of the Piſtol.

Queſt. If Doondy, or any of his People, had produced a Warrant from the Firſt of the Diſpute till the Concluſion of it, do you think you ſhould have ſeen it?
R. I was there from Beginning to End, and muſt have ſeen the Warrant if any had been ſhewn, but he had not any Paper in his Hand.

Queſt. Why do you think that Jaggernaut made his Eſcape during the Firſt Diſpute between Doondy and the Sepoys at the Bottom of the Steps?
R. Becauſe afterwards when they were ſearching for Jaggernaut, he was not to be found, and the People ſaid that he was run away.

A true Copy.

(Signed.) Hy L. Secy.

Depoſitions of Momen Beg, taken at Dacca the 30th September 1777, before Charles William Boughton Rouſe, Eſquire, Chief, and Mr. William Holland.

Momen Beg, an Inhabitant of the City, being duly ſworn upon the Khoran, agreeably to the Cuſtoms of his Religion, depoſeth as follows:

On Saturday Se'nnight, a little before Noon, I was at the Houſe of Syed Ally Khawn, where he and many others were ſitting in the Hall; Jaggernaut was alſo ſitting there. Doondy came with Two Peons—the Peons ſtood without—he went in, and puſhing Jaggernaut with his Hand cloſed, told him to get up—Jaggernaut aſked him his Reaſon for diſgracing him in that Manner; and deſired him if he had any Order or Note, or Warrant, to ſhew it, and he would go with him—Syed Ally Khawn alſo ſpoke to him to the ſame Effect.—Doondy ſaid, You will ſee Two Gurries hence.—Afterwards, Six or Seven more Men came, and Doondy ordered them to ſeize Jaggernaut, which they did by the Waiſtband, and pulled him down the Steps into the Compound—Muckram Ally Khawn Syed Ally Khawn's Father, then got up, and went to the Top of the Steps, ſaying to the People, Why do you diſgrace Jaggernaut in this Manner?—The Havildar who was at the Guard Room, then came up, and aſked Doondy's People the ſame Queſtion:—But they only replied by ſaying, Who are you? he replied, He was ſtationed there by the Nabob; Doondy upon this abuſed him, and the Nabob. In the Confuſion Jaggernaut run away, but where he went I did not ſee. Doondy then tore his Cloaths, and taking up a Brick, beat himſelf, and afterwards went to the Guard Room.—After this a Man went to Doondy, ſent, I believe, by either Syed Ally or Muckram Ally Khawn, and told him to go away as he had not brought or ſhewn any Warrant, either to him, Syed Ally Khawn, or Jaggernaut; but he refuſed to go, and abuſed the Man. At this Time I was deſirous of going home; but when I came to the Door the People within the Compound, ſhut it againſt a great Number of People that were coming towards it. I therefore returned to the Hall, ſome of the People got upon the Wall, and began to throw Bricks; but a great Noiſe being on this Account made by the Neighbours, as they overlooked their Zenanas, they went down. Syed Ally Khawn, whilſt they were throwing Bricks returned to his inner Apartments. Soon after, there was a Cry that the Gentleman was coming! and immediately after the Door being forced fell in, and the Gentleman came into the Compound; his Servants run in before him, beating and knocking down every body in their Way. Muckram Ally Khawn advanced forwards to Mr. Peat, deſired that he would prevent his People from committing ſuch Violences, and requeſted he would go and ſit down with him, and explain to him the Buſineſs upon which he had come.—At this Time Doondy ſnatched a Syef or Sword out of the Hands of Beekah, a Servant of Muckram Ally Khawn, and with both his Hands and his Strength, ſtruck Muckram Ally Khawn with it over the Head.—The Blood iſſued from the Wound; upon which Meer Huſſain ſeeing his Father-in-Law in that State, came running towards him from the Door of the Zenana, where he was—He was quickly ſurrounded and ſeized by Four or Five People. The Scabbard of the Tulwar which he held in his Hand undrawn, was broken. They pulled him towards Mr. Peat, who, firing his Piſtol, ſhot him, and he fell. Mr. Peat inſtantly ran away, and the Friends of Meer Huſſain, then carried him into the Houſe.

Queſt. Was Meer Huſſain beat after he was ſhot, and fell?
R. Not that I ſaw.

Queſt. Was he carried into the Houſe immediately after he was ſhot?
R. As ſoon as the Crowd was diſperſed; as to myſelf, I concealed myſelf under the Steps, as ſoon as I heard the Exploſion of the Piſtol.

Queſt. If Doondy had ſhewn a Warrant, do you think you muſt neceſſarily have ſeen it?
R. Moſt certainly—I have ſeen a Warrant ſerved before on Mirza Cauloo; if any Warrant had been ſhewn, as I was upon the Spot all the Time, I muſt have ſeen it?

Queſt. Was Meer Huſſain's Tulwar drawn when he came running towards his Father-in-law?
R. No, it was in the Scabbard.

Queſt. Was he in the Attitude of drawing it?
R. No, he carried it in his Hand.

Queſt. Did he at any Time raiſe it?
R. No, I did not ſee him raiſe it.

Queſt. Can you particularly deſcribe the Attitude in which Meer Huſſain was when he received the Wound from Mr. Peat?
R. I ſaw the People endeavouring to wreſt the Tulwar from his Hands when Mr. Peat ſhot him; as he was ſurrounded I could not diſtinguiſh every particular.

A true Copy.

(Signed) Hʸ L. Secʸ.

Depoſition of Ammur Sing, taken at Dacca the 30th of September 1777, before Chˢ Wᵐ Boughton Rouſe, Eſq; Chief, and Mr. William Holland.

Ammur Sing, a Hindoo, being duly ſworn conformably to the Cuſtoms of his Caſt, depoſes;

Laſt Saturday Se'nnight, about Noon, whilſt I was bathing at my own Houſe, which is near that of Merza Ally, Nucky, one of my Peons, told me, that there was a Diſturbance at Syed Ally Khawn's Houſe; I therefore went thither, and ſaw Doondy ſitting in the Guard-houſe with Two Peons. I told him, that it was unfit in him, who was Murda Audmee (creditable Man) to make any Diſturbance, and he had better go away.—He replied to me with Abuſes; I found it needleſs to talk to a Man in that Temper, and therefore deſiſted, but ſtill remained near the Door. Preſently afterwards, about Twenty Perſons arrived with Sticks and Clubs, armed at the Points with Iron. I ſtood at the Door with my Arms ſpread out; deſiring that they would not enter, and repreſenting to them that it was not proper ſuch a Number of Men ſhould go to the Houſe to create Diſturbance.—I begged if they had any thing to ſay to Syed Ally Khawn they would ſend one Man to him for that Purpoſe. But they diſregarded me, and one Man hit me with a Stick over my Arm; I therefore ſhut the Door againſt them. They then began to attempt to force open the Door, by ſtriking it with Sticks, and flinging Bricks at it. Not being able to effect this, they went round to a Wall on one Side, and having got upon it, they threw Bricks at Syed Ally Khawn, Muckram Ally Khawn, and every Body: I remonſtrated againſt this Proceeding, but without Effect. I then went to Syed Ally Khawn, requeſting, that he would give us Orders how we ſhould act. At that Time every Body deſired Syed Ally Khawn to retire to the inner Apartments, which he accordingly did, and they deſired me to quit the Door of the Compound, and ſtation myſelf at the Door of Zenana, were I went, and I did not afterwards ſee any Part of the Fray.

Queſt. When you ſaw Doondy, did you expreſsly aſk him upon Buſineſs he was there?
R. No, I did not aſk him particularly, I only told him it was unworthy of him to make a Diſturbance at that Place.

Queſt. Did he, or any of his People, tell you that they were come with a Warrant?
R. No, they did not.

Queſt. Did you ſee any Paper in the Hands of either of them?
R. No, I did not.

A true Copy.

(Signed) H. L. Secʸ.

Depoſition of Mirza Jaffier, taken on Wedneſday the 1ſt October 1777, before Chˢ Wᵐ Boughton Rouſe, Eſquire, Chief, and Mr. Wᵐ Holland.

Mirza Jaffier, an Inhabitant of Dacca, and an Acquaintance of Syed Ally Khawn, being duly ſworn upon the Khoran, agreeably to the Cuſtom of his Religion, depoſes: On the Day the Quarrel happened (I don't recollect what Day it was) I was ſitting at the Houſe of Murza Cauloo, who was gone to the Houſe of Syed Ally Khawn; I heard that there was a Diſturbance at Syed Ally

Khawn's Houſe, whereupon I immediately ran to my own Houſe, put on my Cloaths, and ſent Word of this Circumſtance to Syed Ally Khawn's Friends. I then repaired to Syed Ally Khawn's Houſe, which I entered by the back Door, as I could not get in by the front Door, there being a great Crowd there. I then ſaw Muckram Ally Khawn and others ſitting. I aſked Muckram Ally Khawn the Occaſion of the Diſturbance; who told me the Particulars. (Here the Witneſs relates the Circumſtances in the ſame Manner as deſcribed by Muckram Ally Khawn himſelf). Syed Ally Khawn was retired to the inner Apartments, to whom I went, and he alſo related to me the ſame Particulars as had been told me by Muckram Ally Khawn. At this Time a Man brought us News that a great Crowd of People was aſſembled at the Door, and was attempting to break it open. Syed Ally Khawn then requeſted all the young Men to remain within, deſiring them not to make any Oppoſition; and obſerved, that he had written to the Chief upon the Subject, and that they need not be afraid. Soon after another Meſſage was brought us, that the Gentleman was come. Upon which I aſked Syed Ally what we ſhould do if they ſhould come to the Zenana. He directed us to ſhut the Door, and make no Diſpute; and he alſo deſired that the Arms ſhould be taken from the Servants. I accordingly took them from them, and afterwards went into the Apartments where the Women were, who were in much Fear and Lamentation; and while I was endeavouring to ſooth the Mother of Syed Ally Khawn, I heard an Exploſion. At this Time a Woman of the Apartment brought News, that Syed Ally Khawn's Father and his Brother-in-Law were wounded. I went out, and saw the Blood running down Muckram Ally Khawn's Face; and when I aſked him what was the Matter, he ſaid, Don't mind me, go and look after Meer Huſſain, who has been ſhot by the Gentleman. At this Time the Gentleman was not preſent, and, as I heard, had gone off in his Palanquin, the Inſtant after he had fired his Piſtol.

A true Copy,
(Signed) Hy. L.
Secy.

Depoſition of Meer Mahmud Tacky, an Inhabitant of the City, and in no Perſon's Employ, being ſworn upon the Khoran agreeable to the Cuſtom of his Religion, depoſes to the following Effect:

On Saturday, the Day on which the Quarrel happened, I went to ſee Syed Ally Khawn, and was ſitting with him about Two Gurries before Twelve o'Clock, and ſpeaking to him; when on a ſudden I heard Doondy ſay to Jaggernaut, Get up, get up. Syed Ally Khawn aſked Doondy whether he had brought any Order or Warrant with him? he replied, You will ſee Two Gurries hence. Soon after Doondy turned about, and aſked if his People were come?—Seeing that they were, he ordered them to ſeize Jaggernaut, which they did accordingly, and hauled him out of the Hall, down the Steps, into the Compound. The Sentry at the Door aſked Doondy why he was taking away Jaggernaut, and whether he had brought any Order to take him away? but he replied only by Abuſe.—A Quarrel then happened—Jaggernaut made his Eſcape in the Confuſion—and Doondy went to the Guard Room.—About Two Gurries after I ſaw a Diſturbance was likely to happen, as a Number of People were advancing to the Door; upon this thoſe who were there ſhut it.—The Crowd without knocked againſt the Door, and ſome of them got upon the Wall, which is low, and began throwing Bricks. The Servants of Syed Ally Khawn then ſpoke to Syed Ally Khawn, ſaying, Theſe People are throwing Bricks, what are we to do? but Syed Ally Khawn ordered them to make no Reſiſtance. Syed Ally Khawn at this Time left the Hall and retired to his inner Apartments, and the Neighbours began to raiſe a great Cry againſt the People who were upon the Wall, who therefore quitted it. I then went from the Houſe by a Door at the Back of it.

Queſt. Did you not ſee in Doondy's Hand ſome Warrant or Paper?
R. No, I did not.

Queſt. If he had produced any Warrant or Paper, muſt you neceſſarily have ſeen it?
R. I muſt certainly have ſeen it if he had ſhewn any Paper, as I was ſitting there the whole Time.

Queſt. When Mr. Peat arrived at Syed Ally Khawn's Houſe, was you there?
R. No, I was not—I ſaw nothing of the Quarrel that happened when Mr. Peat was there.

Queſt. When the Diſpute happened between Doondy and the Sentry, did you ſee Jaggernaut make his Eſcape.
R. No, I did not.

Queſt. Why did you ſuppoſe that Jaggernaut made his Eſcape at that Time?
R. Becauſe when the Diſpute was at an End, Jaggernaut was not to be found, and the People ſaid he was gone away.

A true Copy.
(Signed) Hy. L.
Secy.

Depoſition

DACCA APPENDIX, N° 9.

Deposition of Beekah, a Servant to Muckram Ally Khawn, taken on Wednesday the 1st October 1777, before Charles William Boughton Rouſe, Esq; Chief, and Mr. William Holland.

Beekah, a Servant to Muckram Ally Khawn, being duly ſworn upon the Khoran, agreeable to the Cuſtoms of his Religion, depoſes,

Whilſt the People were throwing Bricks from off the Wall, I came and ſtood by Muckram Ally Khawn in the outer Hall; to prevent being ſtruck by them, he retired to one Side of it.—He alſo ſent a Meſſage to the People upon the Wall, by Muſſech Khawn and Augaw Hoſſain, to aſk them if they were come for Buſineſs, or to make a Diſturbance? and deſired, if they were come upon Buſineſs they would ſend One or Two People within to talk amicably upon the Matter.—A ſhort Time after this, a Report was brought that the Gentleman was coming.—Muckram Ally Khawn then deſired his Son to go in with his Friend, ſaying, That he being old and experienced he would remain without to receive the Gentleman, and talk to him.—The Door being forced and thrown down, a Number of People ruſhed in with Sticks and Bamboes, beating every Perſon in their Way. Muckram Ally Khawn ſaid to Kodadaud Khawn, and thoſe that had remained ſitting with him, This is very extraordinary; do you remain here, I will go and ſpeak to the Gentleman.—He gave his Syef (or long Sword) into my Hands, and told me to ſtand where I was.—I remained ſtanding at the Bottom of the Steps, he advanced forward to meet the Gentleman.—Before Muckram Ally Khawn had joined the Gentleman, the People who had entered with him, came up to the Houſe, and treated every Perſon they found with Violence—Three or Four People alſo attacked me, and having knocked me down, ſnatched the Sword out of my Hand. They then laid hold of Kodadaud Khawn and pulled him before the Gentleman, with whom Muckram Ally Khawn was then in Converſation, and while he was remonſtrating to him againſt ſuch Treatment being uſed to a Friend who had come to ſee him, they began to ill treat him likewiſe, and one of them, a tall young Man, whoſe Name I do not know, and who had ſnatched the Sword from me, ſtruck Muckram Ally Khawn with it a violent Blow upon the Head with both Hands. Meer Hoſſain at this Time, who was at the inner Door of the Zenana, came running up to his Father-in-Law, and when he had come within a ſmall Diſtance of him, the People began beating him alſo, and puſhing him towards the Gentleman. When I ſaw Muckram Ally Khawn bleeding, and without Aſſiſtance, I went up to him, and was ſupporting him to conduct him into the Houſe; when we had got about Half Way, we heard an Exploſion, upon which Muckram Ally Khawn ſaid to thoſe who were about him, they were taking Meer Hoſſain that Way, perhaps he may be hurt, go and ſee what has happened. The Gentleman went away immediately; Munza Cauloo took Care of Meer Hoſſain, who was ſhot, and I attended Muckram Ally Khawn into the Houſe.

Queſt. What Kind of a Wound did Muckram Ally Khawn receive?
R. It was about the Breadth of Four Fingers long, on the Top of the Head.

Queſt. Had he a Turban on, or a Cap?
R. When he was ſitting in the Houſe he had a Cap on, when he went to meet the Gentleman he put on a Turban.

Queſt. Did much Blood iſſue from the Wound?
R. Yes: The Nama he had on was much ſtained on both Sides, and my own Cloaths were likewiſe ſtained in ſupporting him.

Queſt. When Meer Hoſſain came from the Zenana, had he any Thing in his Hands?
R. He had a Tulwar in his left Hand.

Queſt. Had he a Target?
R. No.

Queſt. Was the Tulwar drawn, or was it in the Scabbard?
R. It was in the Scabbard in his left Hand.

Queſt. When did he raiſe it?
Rep. I did not ſee him raiſe it.

Queſt. Did he at any Time draw it?
R. I did not ſee him draw it; he was ſurrounded by People when I was conducting Muckram Ally Khawn to the Houſe.

Queſt. Did you ſee the People attack Meer Hoſſain?
R. Yes.

Queſt. At that Time in what Poſition was his Sword?
R. It was in his left Hand.

Queſt. What Perſon attacked the Gentleman?
R. I don't know that any Body attacked him; who would preſume to do it?

Queſt. Have you not heard that any Body attacked him with a Sword?
R. No, I have not.

A True Copy.

(Signed) H. L.
Sec.

Depoſition of Zorawer Sing, Sepoy, taken on Thurſday the 2d of October 1777, before the Dacca Provincial Council of Revenue.

Zorawer Sing Sepoy being duly ſworn according to the Cuſtom of his Caſt, depoſes as follows:

I was ſtanding Sentry at the Door when thoſe People who created a Diſturbance arrived. I aſked them who they were, and upon what Buſineſs they had come? they replied, That they were the Servants of the Phouſdar. I ſaw them afterwards go into the Dewan Khannah or Hall, and ſeize Jaggernaut by the Cummerbund. The Havildar by this Time ordered ſome of the Sepoys to go and bring the Perſons who were making a Diſturbance; and they accordingly brought them to the Guard Room, where ſome Water was given them to drink. The Phouſdar afterwards ſent a Meſſage, deſiring us to tell them to go away; but this they would not do, ſaying, they were out of Breath. Sometime after, a great Number of People was coming to the Door, we therefore ſhut it againſt them; they attempted to force open the Door, and many of them got upon the Wall, and began throwing Bricks. At this Time Mr. Peat came, and the Crowd who were with him having forced the Door, it fell in.—The Havildar went up to Mr. Peat as he was entering the Compound, deſired that he would not proceed further, ſaying, That he would bring any Perſon to him that he wanted; then Muckram Ally Khawn, who had a Cap upon his Head, came up to Mr. Peat, and begged he would not make a Diſturbance, ſaid he would do any thing he wanted, and if he pleaſed he would go along with him. Mr. Peat ſaid (Jou Banchut;) and then his Servants ſeized and puſhed him towards the Houſe. Preſently afterwards Mr. Peat called for his Palanquin, put his Hand behind him, and fired a Piſtol. There was a great Crowd and Confuſion; I did not know at firſt if any Body was hurt; afterwards I ſaw that a Relation of the Phouſdar was wounded in the Belly; upon this we ſaid to our Havildar, Fire Arms have been uſed, we are here, what is to done, who gives us Orders?—The Havildar ſaid he would apply to the Phouſdar for Orders; he went to the Phouſdar, who ſaid he ſhould have Juſtice done him, and poſitively forbid the Sepoys to make any Oppoſition, or occaſion any Miſchief.

Queſt. Did you ſee any Perſon ſtrike Muckram Ally Cawn?
Anſ. No, I did not.

Queſt. Did you ſee Meer Hoſſain a little before he received the Wound?
Anſ. I had been upon Duty only Two Days, and did not know any Body; beſides, there was a great Crowd, and I could not diſtinguiſh One Perſon from another.

Queſt. Did you not ſee any Perſon who had a Tulwar in his Hand uplifted, in the Attitude of ſtriking?
Anſ. I will not ſpeak falſe, I did not ſee any; what I did ſee I declare.

Queſt. Did you ſee any Perſon attempt to ſtrike Mr. Peat?
Anſ. No, I did not.

Queſt. Did you ſee any Warrant or Paper in Doondy's Hand?
Anſ. No; I ſaw nothing in his Hand but a Cuttar.

Queſt. Did he tell you he had a Warrant, or that he had ſerved a Warrant upon Jaggernaut?
Anſ. No; I had no Converſation with him; I was ſtanding Sentry.

Queſt. Did you hear from any Body that Doondy had ſhewed a Warrant to Jaggernaut?
Anſ. No, I did not.

Queſt. Did you hear any Perſon ſay, that any One had torn an Order or Warrant?
Anſ. No, I heard nothing of the Kind.

Queſt. You ſaw Doondy ſeize Jaggernaut; did you ſee Jaggernaut eſcape?
Anſ. No; a Crowd immediately aſſembled about him, and I ſaw nothing of him afterwards.

Queſt. If Doondy had ſhewn you a Warrant for the Seizure of Jaggernaut, what would you have done?
Anſ. He never ſhewed any; I never heard of a Warrant from Beginning to End.

Question repeated and explained in his own language.

Ans. If a Paper had been ſhewn to me with a Seal to it, I ſhould certainly have made no Oppoſition to it.

A true Copy.
(Signed) Hʸ L.
Secry.

Depoſition of Collychurn, Sepoy, taken on Thurſday the 2d October 1777, before the Dacca Provincial Council of Revenue.

Collychurn, Sepoy, being duly ſworn according to the Cuſtom of his Caſt, depoſes as follows:

I am a Sepoy ſtationed to act under the Phouſdar; Two or Three Men, whom I afterwards learned belonged to Mr. Peat, were going to the Phouſdar's Houſe. The Sentry ſtopped them, and aſked them upon what Buſineſs they were going? they replied, That they were Servants of the Phouſdar, and were going to the Durbar.—I was ſtanding at the outer Door, near the Guard Room, when I heard and ſaw a Quarrel at the Dewan Khannah, or Hall of the Phouſdar's Houſe; the Havildar directed me, and other Sepoys, to go and bring the People who were making a Diſturbance. I accordingly went, and brought Mr. Peat's People to the Guard Room, and gave them Water to drink; about Two Ghurries after a Number of People came to the Door, which the Servants of Syed Ally Khawn ſhut againſt them; the People without beat againſt the Door, and attempted to force it open. A ſhort Time after Mr. Peat himſelf came, and his People having broke the Door, it fell in. The Havildar then ſpoke to Mr. Peat, and aſked him whom he wanted, ſaying to him, he would bring to him any Perſon he wanted. Muckram Ally Khawn then came up, told Mr. Peat his Name, and ſaid, that he was Maſter of the Houſe, remonſtrated to him againſt the Diſturbance that was made, and requeſted he would inform him upon what Buſineſs he came? Mr. Peat replied (Jow Banchute;) and his People ſeized and carried him to the Houſe; and Mr. Peat calling for his Palanquin, put his Hand behind his Back, fired a Piſtol, and run off.

Queſt. Who did Mr. Peat fire at?
Anſ. I don't know; there was a great Number of People there, and I could not diſtinguiſh.

Queſt. Do you know Meer Hoſſain?
Anſ. No, I do not.

Queſt. Did you ſee any Perſon with a Tulwar uplifted, in the Attitude of ſtriking?
Anſw. No, I did not.

Queſt. Did you ſee any body ſtrike Meer Muckram Ally Khawn?
Anſw. No, I did not; I was not near enough to ſee the Particulars of the Fray.

Queſt. At the Time the Door was firſt ſhut, did you ſee any Perſons mounted upon the Wall, throwing Bricks?
Anſw. Yes, I did.

Queſt. When you carried Doondy to the Guard-Room, did you aſk him upon what Buſineſs he was come?
Anſw. No, I did not; but the Havildar aſked him, and he replied, The Perſon for whom I came is dead. I will now ruin the Perſon who has got the Place.

Queſt. How did you underſtand the Speech?
Anſw. I did not know what he meant; ſuch were the Expreſſions I heard, and I only repeat what I heard.

Queſt. Did you ſee any Warrant or Paper in Doondy's Hand?
Anſw. No, I did not; there was a Cuttar in his Hand, which he drew, and ſaid, he would kill himſelf with it; whereupon we wreſted it from him.

Queſt. Did you, during any Part of the Fray, from the Time of the Arrival of Doondy, ſee any Paper or Warrant in his Hand?
Anſw. No, I did not.

Queſt. Did you hear him, or any of his People, ſay that he had brought a Warrant?
Anſw. Yes, he ſaid that he had brought a Warrant, but he did not ſhew it.

Queſt. Did you, or any body elſe, deſire him to ſhew it?
Anſw. Doondy did not himſelf tell me that he had got a Warrant.

Queſt. From whence did you hear that he had a Warrant?
Anſw. I did not hear that any of his People ſaid ſo; I heard People talking about a Warrant.

Queſt. Did you hear any Perſon ſay that he had ſeen a Warrant?
Anſw. No, I did not.

Queſt. Did you ſee Doondy ſeize Jaggernaut?
Anſw. Yes, I did.

Queſt. When Doondy ſeized Jaggernaut, what happened?
Anſw. Yes; they were hauling him; we came up and took away Doondy and his Peons to the Guard-Room. When Jaggernaut went away, I do not know what became of him.

Queſt. When you prevented Doondy from carrying away Jaggernaut, did he not tell you why he had ſeized Jaggernaut, or whether he had made him a Priſoner by a Warrant?
Anſw. No, he did not.

Queſt. If he had ſhewn you a Warrant of the Supreme Court, for the Seizure of Jaggernaut, what would you have done?
Anſw. What do I know? I ſhould have taken the Order of my Superior.

A true Copy.

(Signed) Hy L.
Secry.

Depoſition of Muſſeetah Khawn, taken Thurſday the 2d October, before the Dacca Provincial Council of Revenue.

Muſſeetah Khawn, a Perſon in no Employ, being duly ſworn according to the Cuſtom of his Religion, depoſes as follows:

I was ſitting at Syed Ally Khawn's Houſe the Day the Fray happened, in the Dewan Khannah, with Jaggernaut and ſeveral other Perſons; when Doondy came about Noon with two Peons; he walked up the Steps into the Houſe, came to Jaggernaut, puſhed him with the Hand cloſed, and ſaid, repeatedly, Get up.—Jaggernaut aſked him, Where he came from? he ſaid, He came from Mr. Peat, who required Jaggernaut's Attendance. Jaggernaut aſked him, If he had brought any Note or Warrant? if he had, he deſired him to ſhew it. For ſome Time he gave no Anſwer, but continued ſitting with his Back towards Syed Ally Khawn. The ſame Queſtions were then aſked him by Ally Khawn himſelf; he gave no Anſwer; but he ſaid once, You will ſee preſently. Soon afterwards he looked round, and aſked, Are they come? the Peons who were with him, ſaid, Yes; and immediately Five or Six People appeared, who ſeized Jaggernant, pulled him out of the Houſe, beating him as they went along. The Havildar at the Gate came up, and aſked Doondy, Why he made that Diſturbance in the Phouſdar's Cutcherry; and told him to produce his Authority, if he had any, for diſgracing the Dewan in ſuch a Manner. A Confuſion aroſe; the Havildar carried away Doondy, but not with any Violence. When he went to the Gate, the Havildar told him to go away, if he had no Buſineſs, or no Warrant; but he ſaid he would not go away; that they had made a Diſpute with him. At this Time, Syed Ally Khawn ſent me with a Meſſage to Doondy, deſiring, if he had any Warrant or Paper, that he would ſhew it, and not make any Diſturbance; or if he had none, that he would go away about his Buſineſs. He gave no Anſwer, but Abuſe; and I found it needleſs to aſk him any Queſtions. I likewiſe told him to go away, as he had produced no Warrant. He ſent a Meſſage by one of his People to Mr. Peat. About Two Ghurries afterwards a great Noiſe aroſe; the Door was faſtened; ſeveral People mounted upon the Wall, and tore off the Bricks, which they threw into the Houſe; others attacked the Door. They quitted the Wall, upon a Clamour made by the Neighbours, that their Houſes were overlooked. A Ghurrie or two after, Mr. Peat arrived. Muckram Ally Khawn told me, and ſeveral others who were ſitting there, to go away towards the Zenana. I was within the Houſe. I heard an Exploſion; I came out, and ſaw that Muckram Ally Khawn was wounded in the Head, and much Blood iſſuing from the Wound; and they were taking up Meer Hoſſain, who had been wounded with a Ball. The Gentleman was gone. This is all I know.

DACCA APPENDIX, Nº 9.

Copy of a Letter from Mr. Peat to the Chief.

Sir,

As I underſtand from Captain Cowe, that the Sepoys are continued over me by your Directions, and as the Man whom I ſhot is neither dead nor likely to die, there is no Cauſe for keeping me in Confinement, I therefore now apply to you for your Directions to take away the Sepoys from my Houſe, that I may be at Liberty.

I preſume it will be needleſs for me to inform you, that the putting any Reſtraint on my perſonal Liberty without my Conſent, while I reſide here as an Officer of the Supreme Court, is a Contempt of that Court, beſides a private Injury, for which I am entitled to have Redreſs.

Dacca, Oct. 1, 1777.

I am,
Sir,
Your moſt obedient Servant,
(Signed) Sam. Peat.

Chief's Reply to Mr. Peat.

Sir,

In reply to your Favour of this Day's Date, I am very ſorry to acquaint you, that the laſt Report I received from the Surgeon, concerning the Situation of the Perſon who was ſhot by you, was unfavourable.

I have directed both the Surgeons to attend me To-morrow Morning, when they will be publickly examined; and I ſhall be extremely happy if their Report may be ſuch as to juſtify me, conſiſtently with the Orders under which I act, in removing the Sepoys from your Houſe: If not, I ſhall refer it to Mr. Juſtice Chambers, who is now in Town, to act in the Matter as he may think proper.

Dacca,
Oct. 1ſt, 1777.

I am,
Sir, &c.
(Signed) C. W. B. Rouſe.

A true Copy.
(Signed) Hy L. Secretary.

Agreed, that the Provincial Council of Dacca be written to as follows:

To Mr. C. W. B. Rouſe, Chief, &c. Provincial Council of Revenue, Dacca.

Gentlemen,

We have received your Letters of the 27th, 29th September, and 2d Inſtant, with the Papers mentioned to accompany them.

We herewith encloſe you Copies of the Opinion of our Counſel on the Conduct of Mr. Peat, as an Attorney and Sheriff's Bailiff, both for your own Information, and that you may communicate to the Phouſdar ſuch Parts of them as relate to him and the other Perſons who may have been Sufferers in the Aſſault ſaid to have been made upon his Houſe.

We deſire you will ſend down the Proofs and Evidences of Mr. Peat's having acted in the Capacities of Attorney and Sheriff's Officer, in ſuch Inſtances as have come to your Knowledge.

We obſerve that you have taken Meaſures for diſpatching the Witneſſes of the late Fray to Calcutta; as our Orders to this Effect were grounded on a Suppoſition that Meer Hoſſain Ally might die of the Wound he had received, they will of Courſe be rendered unneceſſary, in caſe of his Recovery; and we direct that you ſuſpend the Execution of them for that Reaſon, as in that Caſe it muſt reſt with the wounded Man alone, to take ſuch Courſe as the Law of England directs, in order to obtain Redreſs for the Injury which he may have ſuſtained.

Fort William, 14 Oct. 1777.

DACCA APPENDIX, No. 10.

Dacca, the 6th October 1777.

At a Provincial Council of Revenue;

PRESENT,

Charles William Boughton Rouſe, Eſq;
John Shakeſpear; And
William Hollond.

READ another Letter from the Honourable Governor General and Council of Revenue.

To Mr. C. W. Boughton Rouſe, Chief, &c. Provincial Council of Revenue at Dacca.

Gentlemen,

We have received your Letters of the 18th, 23d, 25th, and 26th Inſtant, with their Encloſures.

We direct you to recommend in the moſt earneſt Manner to the Phouſdar, to enter upon his Office, and to exerciſe the Functions of it, as the Peace of the Country will be greatly endangered by a Suſpenſion of the Powers of the Police; and the Conſequences he apprehends may be alleviated by a prudent Conduct on his Part, and by a cautious Obſervance of the Advice which has been communicated to him.

Fort William,
the 30th September 1777.

We are, &c.

The Chief informs the Board, that upon Receipt of the above Letter, he wrote the Purport of it to the Phouſdar, and now lays Tranſlation of his Anſwer before the Board.

Tranſlation of a Letter from Syed Ally Cawn, Provincial Phouſdar, to the Chief.

I have received your Letter, mentioning your having, for the Inſpection of the Gentlemen of the Council at Calcutta, tranſmitted a Tranſlate of the Anſwer written by me to you relative to the Murder of Mahmud Fawter, and other People, committed in the Pergunnah Turruph by the Slaves; and that now an Anſwer is arrived, directing the Gentlemen here earneſtly to exhort me to enter upon the Office entruſted to me, as a Suſpenſion of the Execution of it may endanger the Peace and good Order of the Country; I have alſo received an Order from the Nabob, to tranſact the Buſineſs of the Phouſdarry:—But in deciding on the Buſineſs of Two People, between whom there is a Diſpute, it being impoſſible for both to affirm the Truth, I muſt in Juſtice decide in favour of the Party which appears to have moſt Right; but then, when will the other be ſatisfied? His Cry will be, that there is Injuſtice done; and in caſe he goes to complain in the Court, and brings up a Warrant againſt me, I muſt go and anſwer to it, and until ſuch Time as the Truth or Falſehood of it ſhall be enquired into, it will be neceſſary that the Hakim (or Perſon veſted with the executive Powers of an Office) remains a Culprit, and in becoming a Culprit, he muſt appear before the Vulgar, in many Reſpects of no Conſequence, Credit, or Authority, and his Order will never be depended on, or attended to, by any one. Suppoſing it is proved in Court, that a Complainant has preferred a falſe Complaint, he is puniſhed, and made to defray all Charges attending it; but in the mean Time the Perſon who has acted in the Function of his Office, will be diſgraced and degraded in the Light of Society. Among theſe Bengalees, many through Malice and Envy will deſtroy their own Subſtance to create Diſputes and Quarrels, and many are ſo deſpicable, that they neither fear or care for Blows or Confinement; but little Matters may degrade and diſhonour Men of Rank, and it is a Diſgrace to them to be placed on a Footing of Equality with mean Men.—In caſe the Gentlemen ſhall think proper to examine the Buſineſs tranſacted by me, or by my Servants, whether it is juſt or unjuſt, let them call for the Decrees and the Proofs exhibited by the Plaintiffs and Defendants, and inſpect and inveſtigate them; I cannot object to it:—Men are liable to Error; even in a Court Errors may happen from Neglect of Pleading, or Deficiency of Proof, and it may be corrected;—but in caſe a Perſon acting in his Office is to be liable to a Warrant, it is a very difficult Situation, and it is a Cauſe of Levity to the Concerns of Government. It is poſſible that in One Day Ten People may prefer Complaints, which requiring the Perſon in Office to employ his whole Time in anſwering them; how can he find Time to execute the Functions of his Office, which are his proper Buſineſs? Since the Order of my Superior is not to be diſpenſed with, well; I will diſcharge the Buſineſs in Caſes where the Peace of the Country may require it, but until the Diſpute relative to Warrants againſt Men in Office is ſettled, it will be very difficult to go through the Buſineſs with Satisfaction, and the Function of the Office cannot be diſcharged with Security, or Buſineſs well tranſacted, and until Men in Office are known by the common People to be firm in Office, what they ſay or write will not be attended to; I am in every Reſpect obedient to the Orders of my Superior. I have repreſented the above Circumſtances for the Proſperity and well-conducting of the Buſineſs of Government; as to the reſt, it depends upon thoſe who have the Power.

Under the Seal of Syed Ally Khawn.

A true Tranſlate.

(Signed) William Cator,
Perſian Tranſlator.

Agreed, Copy of it be tranſmitted to the Honourable Governor General and Council of Revenue, with the following Addreſs:

To the Honourable Warren Haſtings, Eſquire, Governor General and Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,

The Purport of your Letter under Date the 30th Ultimo having been communicated to the Phouſdar, we have the Honour to encloſe you a Tranſlation of his Anſwer.

We are with Reſpect,
Honourable Sir, and Gentlemen
Y

Dacca,
the 6th October 1777.

DACCA APPENDIX, Nº 11.

Dacca, the 20th October, 1777.

At a Provincial Council of Revenue;

PRESENT,

John Hogarth, Eſquire, Acting Chief.
Meſſrs. John Shakeſpear: And
Matthew Day.

THE Acting Chief is requeſted to communicate to the Phouſdar, ſuch Parts of the Council's Opinion as relate to him, and the other Perſons who have been Sufferers in the late Aſſault made upon his Houſe. Upon the 3d Paragraph

The Board remark, that with their Letter of the 18th Ultimo, they tranſmitted ſeveral original Notes from Mr. Peat, wherein he ſigns himſelf Attorney at Law; and the Acting Chief now lays before the Board an original Letter from Mr. Peat to Jaggernaut Dewan, ſigned alſo Attorney at Law.

Jaggernaut Dewan,

Complaint having been made to me reſpecting your having confined Khyrco Hircarrah for upwards of Two Months in your own Houſe, without any reaſonable Cauſe, and contrary to the Order of the Phouſdar, who had acquitted him of a Charge made againſt him, I am inſtructed to inform you, that if you do not diſcharge him from the Confinement he is now under, Application will be made to the Supreme Court for a Writ, to command you to take him to Calcutta, and to ſhew the Cauſe of your taking and detaining him.

I am
Your humble Servant,
(Signed) S. Peat,
Attorney at Law.

June 27th, 1777.

Ordered, The Secretary to ſelect from the Proceedings all original Letters from Mr. Peat, ſigned by him as Deputy Sheriff.—And

Agreed, They be now tranſmitted to the Honourable Governor General and Council of Revenue, with the following Addreſs:

To the Honourable Warren Haſtings, Eſquire, Governor General and Council of Revenue.

Honourable Sir, and Gentlemen,

We have received your Order of the 14th, accompanied with the Opinions of the Honourable Company's Counſel, and ſhall immediately make known to the Phouſdar, ſuch Parts thereof as relate to him, and the other Sufferers in the late Fray.

With our Addreſs of the 28th Ultimo, we had the Honor to tranſmit ſeveral original Notes from Mr. Peat, ſigned, "Attorney at Law;" and there now attends you, encloſed, an original Note from Mr. Peat to Jaggernaut Dewan, ſubſcribed in the ſame Manner. This appears to be the firſt Step taken in the Suit on which the Warrant was ſubſequently iſſued, for the Apprehenſion of the Dewan, and affords poſitive Proof of his having acted as Attorney in that very Suit.

The Proofs of his having officiated as Sheriff's Deputy in the ſame Suit, will be found in the original Notes from Mr. Peat to the Chief and our Board, claiming Jaggernaut as his Priſoner, which accompanies this Letter. In addition to theſe, we muſt beg Leave to refer to the Teſtimony of Mr. Rouſe and Mr. Hollond, and particularly of the latter, who attended Mr. Peat, and executed Bail to him for Jaggernaut, as Sheriff's Deputy. Theſe Gentlemen having quitted Dacca on the 16th Inſtant, they will neceſſarily be on the Spot in a very few Days. Should any farther Proofs come to our Hands, they will be immediately tranſmitted.

The Witneſſes have been long ſince diſpatched from hence, and muſt be in Calcutta, before any Meſſenger from hence could overtake them. We have, however, informed the Phouſdar, that if the Sufferers in the late Fray are deſirous of bringing the Matter to a public Trial, it reſts with them alone to take ſuch Courſe as the Law directs for obtaining Redreſs.

We have the Honor to be, &c.

P. S. With our Addreſs to the 20th September, we had the Honor to ſend Mr. Peat's Original Letter to Lieutenant Cowe, requiring Aſſiſtance for the Seizure of Jaggernaut, wherein Mr. Peat ſtiles himſelf "Deputy Sheriff."

DACCA APPENDIX, Nº 12.

Dacca, the 13th October, 1777.

At a Provincial Council of Revenue;

PRESENT,

Charles William Boughton Rouſe, Eſquire, Chief,

Meſſrs. { John Hogarth,
John Shakeſpear,
William Hollond.

MIRZA MOSHUM, the Darogha of the Phouſdarry Adaulut, ſends in the following Repreſentation and Report:

The Repreſentation of Mirza Moſhum, Darogha of the Phouſdarry Adaulut, at Dacca.

I am appointed from the Nizamut to the Court of Phouſdarry at Dacca; and agreeable to the Appointment and Order from the Nabob, which remains in my Hands, I conduct the Buſineſs of the Phouſdarry Court. About Five or Four Months ago, there had been a Complaint in the Phouſdarry Court, relative to a Diſpute between Ford Taylor and the Head of the Women of the Town, by Name Sham (a Report of which, atteſted by Witneſſes on the Spot, together with the Depoſitions, are forth coming) and Sham aforeſaid attended at Calcutta to complain; notwithſtanding which, the ſaid Taylor having, through Falſhood, repreſented that I ſummoned and confined him without Reaſon, has procured a Summons againſt me. Whereas, it is neceſſary that a Perſon in Office go through the Buſineſs before him, and that he ſhould, agreeably to his Appointment and Order, ſummon an Offender, at the Complaint of the Aggrieved, for an Example to Rioters. If in this Manner an Offender ſhall bring a Summons againſt me, Hundreds complaining in the Phouſdarry for Redreſs for their Grievances, and who are all having their Matters enquired into and ſettled, by this Means finding at the Sudder a Road to bring Summons, Knaves will colluſively apply at the Preſence, for Warrants or Summons againſt me. How is it poſſible that I, who am appointed to correct Abuſes, and redreſs Wrongs, can give Anſwer to the Summons and Warrants of all the Offenders? Or from whence am I enabled to defray the Charges attending them? I am unacquainted with Engliſh Courts. The Charges to Calcutta, in caſe I, agreeably to the Summons, proceed there, are conſiderable; beſides, the Buſineſs of the Court of Phouſdarry is at a ſtand, and if I refuſe to go, I offend the Gentlemen of the Court. I pray that the Gentlemen of the Council do give me the neceſſary Advice in this Affair.

(Signed) Mahmud Mohun.

A true Tranſlate.

(Signed) William Cator,
Perſian Tranſlator.

Copy of a Report, dated the 7th of Jummaudetry-volowal, of the 18 Year, equal to the 13th of Aſſar, 1183, Bengal Style.

On Tueſday at Six Gurries of Night, about Eight o'Clock, the Khidmutgars of Ford Taylor having come to the Houſe of Sham Surdar, ſaid, "Give me a Girl." The ſaid Surdar replied, "From whence having brought a Girl, ſhall I give one?" The Khidmutgars having told this to Ford Taylor, that the Girl had been made to run away, the ſaid Taylor gave an Order, "Having ſeized Sham aforeſaid, bring him." After this, the Khidmutgars having come, ſeized the ſaid Sham, carried him to the Taylor, who having given an Order, collected his Durwan Suis and Conſumah, beat the ſaid Surdar, having beat him with a Whip almoſt to Death, and taken Rodah and Rajing, Two Girls, confined them. The ſaid Taylor told Sham above-mentioned, You will not complain of this Matter any where; I will give you Five Rupees. On which, having made out a Note on a Podar for Five Rupees, he gave it. No one being in the Surdah's Houſe, the Things were ſtolen.

Thoſe who are acquainted with this Matter, let them, with Truth, ſign as Witneſſes to this Paper.—Dated above.

Witneſſed by
Shake Hingun, of Comar Toolly
Mhullador, ditto
Bunwaulah, ditto
Paunoo, ditto
Mungly, ditto
Saibjam, of Iſlampore
Shake Tyz Collah, belonging to Mr. Hunter.

A true Tranſlate.
(Signed) William Cator,
Perſian Tranſlator.

The Summons ſerved upon the Darogha is as follows:

Fort William, in Bengal,

L. S.

A. Frazer, Sealer.

George the Third, by the Grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, and ſo forth, to the Sheriff of Calcutta, at Fort William, in Bengal, greeting. We command you, that you ſummon Mirza Moſhum, Phouſdar, now or late of Dacca, if he ſhould be found in the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, that he be and appear before our Juſtices of the Supreme Court of Judicature at Fort William in Bengal, on Wedneſday, the Twenty-ſecond Day of October next, at Fort William aforeſaid, to anſwer to Francis Ford, in a Plea of Aſſault and falſe Impriſonment, whereof the ſaid Francis Ford hath filed his Plaint of Record in our ſaid Court, and have there then this Writ. Witneſs Sir Elijah Impey, Knight, at Fort William aforeſaid, the Twelfth Day of July, in the Year of our Lord One thouſand Seven hundred and Seventy-ſeven.

(Signed) Rᵈ Litchfield,
Prothonotary.

Peat and Wroughton, Attornies. } 15th Auguſt, 1777.

Agreed, Copies of the foregoing be tranſmitted to the Honourable Governor General and Council of Revenue, with the following Addreſs:

To the Honourable Warren Haſtings, Eſquire, Governor General and Council of Revenue, Fort William.

Honourable Sir, and Gentlemen,
You have already been informed by our Board, of the Proceedings held in the Phouſdarry, Adaulut, in conſequence of a Complaint lodged in that Court by Sham Surdar, againſt Mr. Ford, Taylor, reſiding in Dacca.

We have now to acquaint you, that a Summons has been ſerved upon the Darogha of the Phouſdarry Adaulut, requiring him to appear and anſwer in the Supreme Court, on the 22d Inſtant, upon an Action of Aſſault and Falſe Impriſonment.

We have the Honour to encloſe Copy of the Writ, accompanied by the Repreſentation he has delivered to our Board upon the Subject. The neceſſary Advice has been ſent to the Company's Attorney, Mr. Jarrett, that he may enter an Appearance, and apply for your Inſtructions in defending the Suit.

We are, with Reſpect,
Honourable Sir, and Gentlemen,
Your moſt obedient humble Servants.

Dacca,
the 13th October, 1777.

COSSIJURAH APPENDIX,

Nº I.

Rev. Department. **Fort William, 17 June, 1777.**

At a Conſultation;

PRESENT,

The Honble Warren Haſtings, Eſquire, Governor General and Preſident,
Lieutenant General John Clavering,
and
Philip Francis, Eſquire.
Mr. Barwell abſent.

Coſſinaut's Tender of the Amount of the Bills drawn on him.

THE Secretary lays before the Board the following Tender from Coſſinaut, and acquaints them that the Roy Royan has Orders to receive the Money, and to releaſe Coſſinaut.

Calcutta, 17th June 1777.

The Honourable the Board of Revenue having come to a Reſolution to re-examine and adjuſt my Claims on Government, as per their Proceedings on Friday laſt, on my Petition that Day read and taken into Conſideration, I do hereby tender the Amount of the Claims made on me by Government, to remain as a Depoſit in the Khalſa, pending the Settlement of the ſeveral Matters in Diſpute in the ſaid Petition mentioned.

Roy Royan's Report.

Read the following Letter from the Roy Royan to the Secretary:

Tranſlation of a Letter from the Roy Royan to the Secretary, dated the 17th of June 1777.

Agreeable to the Orders of the Council which you this Day tranſmitted me, I am to inform you that I have releaſed Coſſinaut Baboo from the Khalſa Cutcherry, after his paying the Sum of 72,558. 9. 7. in Depoſit into the Treaſury.

Orders thereon.

Ordered, That the Company's Counſel be adviſed of this Diſcharge by mutual Agreement.

Proceedings in Coſſinaut's Claims to be abſtracted.

Reſolved, That the Superintendant of the Khalſa Records be directed to form an Abſtract of all the Proceedings of the Board which have been held upon this Subject, and to ſend for any further Papers or Evidences he may think neceſſary to bring Coſſinaut's Pretenſions in one diſtinct View before them.

COSSIJURAH APPENDIX, Nº 2.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 25th May 1779.

READ the following Petition from Coſſinaut Baboo;

To the Honourable Warren Haſtings, Eſquire, Governor General and Council of Revenue at Fort William.

The humble Petition of Coſſinaut Baboo, Sheweth,

That your Petitioner has preſented ſundry full and ample Petitions relative to the Money due to him, by Sundernarain the Zemindar of Coſſijurah, as well as concerning the Moheteran which your Petitioner is entitled to receive at Burdwan; and that he has been nearly Two Years diſtreſſed and harraſſed on this Account. As Mr. Ducarel has now, by the Orders of Government, made Enquiry into both thoſe Articles, and reported the ſame to the Honourable Board; I am therefore hopeful, and do earneſtly entreat you will be pleaſed at length to take theſe Circumſtances into Conſideration, and paſs your Orders for my receiving the Money and Moheteran in queſtion.

And your Petitioner, as in Duty bound, ſhall ever pray, &c.

Ordered, That the Secretary do bring the Reports regarding Coſſinaut before the Board on Friday next, and that the Superintendant of the Khalſa Records do attend.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 28th May 1779.

Read the following Report from the Superintendant of the Khalſa Records, with the accompanying Abſtracts.

The Superintendant of the Khalſa Records now lays before the Board, an Account current between the Rajah of Coſſijurah and Coſſinaut, on which he has to report as follows:

That he has drawn out the above Account in Conformity to the Board's Orders, giving the Rajah Credit for all Receipts made by Coſſinaut, and debiting him for all Coſſinaut's Diſburſements, admitting both Receipts and Diſburſements as ſtated by Coſſinaut in his Account, and debiting both reſpectively for the Intereſt ariſing on the Receipts and Diſburſements from their reſpective Dates to the lateſt Period of the Account, at the Rate of 2 per Cent. per Menſem.

The Accounts from which this Tranſcript has been made, were delivered by Coſſinaut, and being written in the Bengal Language, were ſubmitted by the Superintendant to the Royan's Naib, to examine and report what Accounts they were, and how authenticated. Accordingly he has reported, that the Accounts in queſtion contain a State of Remittances made from Coſſijurah to Coſſinaut at Calcutta, with his Payments into the Treaſury, and all Diſburſements made therefrom. Coſſinaut has ſigned Chelans to authenticate each Remittance; and the Sum Total of each Date of Entry on the Diſburſement Side, is ſigned by the Rajah's Calcutta Vakeel, except ſome Dates in the Two latter Year; but all the Accounts for each Year respectively, including 1180, 1181, 1182, 1183, 1184, are signed at the Conclusion by the Rajah and his Dewan.

The Superintendant has only taken the Sum Total of each Date of Entry, in order to calculate the Interest Account upon it, and as this Sum was made up from different constituent Charges, he has only specified the Sum without naming the Articles of which it is composed. — But for the Board's Information he has subjoined, to this Report an Abstract of Cossinaut's Account, which shew the Articles which compose the Disbursements.

He has likewise been obliged to divide the Account into Two Parts, because Cossinaut has settled in this Manner with the Rajah. — The first Account begins with the Year 1180, and ends with that of 1182; the Second Account begins with 1183, and includes 1184, with some little Time of 1185.

Khalsa,
28th May 1779.

(Signed) G. G. Ducarel,
Sup^t Khalsa Records.

Abstract of the Account current between Cossinaut and the Rajah of Cossijurah and Shahpore, upon which the Interest is calculated.

Disbursements from the Beginning of the Bengal Year 1180, to the End of 1184.		
Payments to Treasury; viz.		
According to the Treasury Accounts and Receipts	7,89,170 2 —	
Paid back to Cossinaut	80,683 2 —	
		8,69,853 4 — —
Account Loans.		
Paid Debts incurred in the Year 1179, through Praun Naut Baboo		69,990 14 2 2
Durbar Charges.		
Disbursed on this Account		71,491 11 5 —
Attorney Charges.		
Paid on this Account		36,671 — — —
Maalzamenis.		
Paid Resum on this Account		22,333 10 — —
Patwan.		
Paid on this Account to Dol Chund's House		2,641 — — —
Petty Charges.		
To Aumeens to the Rajah, &c.		13,409 1 12 —
Total Charges to 1184		10,86,390 8 19 2
On account of 1185.		
Rajah's, &c. Petty Charges		8,196 14 — —
		10,94,587 6 19 2
Deduct Receipts, being the Amount remitted to Cossinaut		9,34,580 14 17 2
Excess claimed by Cossinaut		1,60,006 8 2 —

Abſtract of the Account between Coſſinaut and the Rajah of Coſſijurah, as ſtated by the Vakeels of the latter, and upon which they deſire Intereſt may be calculated.

Remittances made to Coſſinaut at Calcutta; viz.

According to what is admitted by Coſſinaut	—	9,34,580	14	17	2	
Exceſs Charges by the Rajah's Vakeel	—	6,844	13	2	2	
Total	—	9,41,425	12	—	—	
From which he deducts only the actual Payments at the Treaſury on account of the Revenue	—	7,89,170	2	—	—	
Due to the Zemindar	—	1,52,255	10	—	—	

Ordered, That the Accounts current delivered in by the Superintendant, be entered in the Appendix.

Read the following Repreſentation of Coſſinaut Baboo.

(Tranſlation.)

Repreſentation of Coſſinaut Baboo.

Mr. Ducarel the Superintendant of Khalſa, has ordered the public Mohrans to draw out an Intereſt Account of the Receipts of the Pergunnah of Coſſijurah, on one Side, and of the different Payments agreeable to their reſpective Dates, on the other, from the Rozenameha (Day Book) of the Mahlzamieny Shereſtah. I have ſtrongly objected to this Mode of ſtating the Account, but the ſaid Gentleman has been regardleſs of what I could ſay, telling me, that I muſt comply with the Order of the Council, or if I have any Objections to make, repreſent ſuch to them. An Account has now been prepared in the Manner above ſtated, of the Receipts and Payments for Five Years, and putting down every Exceſs of Payment upon the Receipts as a Loan to be made good to the Merchant.

I beg to repreſent, that there never was an Inſtance before, of ſuch a Form of an Account current as the aforementioned, having taken Place between a Zemindar and Malzamin, or Adahdar, in any Part of the Royal Dominions. Let the Canongoes and other ancient Servants of the Khalſa be conſulted, as to the Truth of this Aſſertion. What have my mercantile Dealings to do with the Receipts and Charges of the Zemindar? The Zemindar took Money from me, and gave me his Bond for it; I muſt receive Payment agreeable to his Bond. I cannot underſtand the Reaſon of the Board's ordering the Account abovementioned, becauſe, as the Gentlemen certainly well know the Cuſtom in mercantile Tranſactions of this Country is, as I ſhall hereunder proceed to explain:

In Tranſactions where no Bonds are given, which the Shroffs call Chelrah Khaltab, the Receipts and Payments are regularly ſtated in the Rozenameha, or Day Book, and at the End of the Year, an Account is drawn out of the Intereſt on the reſpective Sums, and the Amount added to the Principal; this is the Practice obſerved by Mahaſins in the above Caſes.—Where Bonds have been given, if the Borrower does not diſcharge the Bond within the Time limited, he pays off the Intereſt and gives an exchange Bond; or ſome add the Intereſt and Principal together, and give a new Bond for the Aggregate Amount: On this Mode, have the Engliſh Gentlemen, as well as Natives, carried on their Buſineſs. The Company have alſo taken up Money in the ſame Manner, that is, paying off the Intereſt Annually, and granting freſh Bonds.

The Zemindar of Coſſijurah granted me his Bond in the Years 1181 and 1182, Ummelly; but during the Four or Five Years which have elapſed ſince that Time, on account of the Relation and Connection exiſting between us, I have not thought of exacting Intereſt, or taking Exchange Bonds from him, to the End of each Year.

I have already ſaid, that there is no Connection between the Receipts and Charges of the Zemindar and my Dealings as Mahajin. If the Gentlemen ſhould ſay, that I was in Fact the Malzamin, I alſo reply in that Character. A Malzamin who ſtands Security for the Revenue of Government, and receives the Produce of the Country, pays the Revenue agreeable to the ſtipulated Kiſts, if able; if not, he muſt borrow Money from Merchants for that Purpoſe, and receive the

Intereſt of it from the Zemindar; but ſhould there remain any Monies in his Hands, after Payment of the Revenue, the Zemindar is not entitled to Intereſt from him. It is certain, that no Zemindar has hitherto received Intereſt of this Nature, as may be aſcertained by a Reference to the Canongoes, and other ancient Officers of the Khalſa. Should the Zemindar remit any Sums to the Malzamins, over and above his Kiſts for the Payment of his Debts, and the Malzamin delay paying ſuch Sums to his Creditors, he will in that Caſe be entitled to Intereſt. The Zemindar of Coſſijurah, was ever backward in his Monthly, as well as Annual Payments, while the Malzamin kept up his Payments both of the current Revenue and former Balances, and in this Reſpect, the Zemindar reaped an Advantage in the Article of Intereſt.

Read the Proceedings of the 16th of February laſt on this Subject.

The Board obſerve, on the Face of Coſſinaut's Account, one Article which appears moſt manifeſtly to them to have been improperly carried to the Debit of the Rajah of Coſſijurah (to wit) the Sum of Rupees 80,683. 2. 0. being Part of the Sums remitted from the Zemindarry, and actually paid into the Treaſury in Calcutta, but afterwards repaid from the Treaſury, to Coſſinaut, by a Decree paſſed by the Board on the 24th of December 1777. This Sum, the Board are of Opinion, ought to be transferred to the Credit of the Rajah, and Credit alſo allowed him in his Intereſt Account for the Intereſt upon it.—Nevertheleſs, as the Board muſt conclude (though the Reaſons for ſo extraordinary a Charge do not appear) that Coſſinaut muſt have had ſome Grounds for it, they therefore direct, that he be called upon to ſtate his Objections, if he has any, to the Adjuſtment herein propoſed.

The Board further direct, that the Account delivered in by Coſſinaut Baboo, be delivered to the Rajah of Coſſijurah, and that he be called upon to ſtate his Objections (if there are any) to the Articles compoſing the Account.

COSSIJURAH APPENDIX, N° 3.

In the Supreme Court of Judicature, at Fort
William in Bengal.

Between { Coſſinaut Baboo, — — Plaintiff,
and
Rajah Soondernarain, — Defendant.

COSSINAUT Baboo, the Plaintiff in this Cauſe, maketh Oath, and ſaith, That Rajah Soondernarain, the Defendant above-named, is juſtly and truly indebted unto him this Deponent, in the Sum of One hundred and Eighty-three thouſand Four hundred and Five Rupees Thirteen Annas and Eight Pye, Sicca, for Principal and Intereſt upon Two Notes or Inſtruments in Writing, in the Bengal Language, under the Hands of the ſaid Rajah Soondernarain; one of the ſaid Notes payable unto this Deponent, and the other of the ſaid Notes payable to Sace Jugamohun-Shaw Gie: But this Deponent ſaith, that the Principal Sum of Money in the ſaid laſt-mentioned Note or Inſtrument mentioned, was advanced and paid to the ſaid Defendant out of the proper Monies of this Deponent, and that the Name of the ſaid Jugamohun was inſerted therein, in Truſt only for this Deponent; and ſaith, that the whole Principal and Intereſt due on the ſaid laſt-mentioned Note, doth belong unto him this Deponent. This Deponent further ſaith, that the ſaid Rajah Soondernarain ſubſcribed the ſaid Notes and Inſtruments in Calcutta, and received from this Deponent in Calcutta, the Principal Sum of Money in one of the ſaid Notes mentioned. This Deponent further ſaith, that the ſaid Rajah Soondernarain is Zemindar of the Pergunnah Coſſijurah and Sahapore, in Bengal, and is employed by the United Company of Merchants of England trading to the Eaſt Indies, in the Collection of the Revenues, due and payable to the ſaid United Company out of the ſaid Pergunnah.

Sworn the 13th Day of
Augt. 1779.
Before me,
J. Hyde.

Signed in Nagree, by
Coſſinaut Baboo.

Upon reading the forgoing Affidavit, I do order that a Capias do iſſue againſt the within-named Rajah Soondernarain, and that a Clauſe be inſerted in the ſame, authorizing the Sheriff to take Bail in the Sum of Three hundred thouſand Sicca Rupees.

Dated this 13th Day of Aug^{t}. 1779.
J. Hyde.

A true Copy.
Uvedale, Att^{y}. R^{d}. Litchfield, Prothonotary.

COSSIJURAH APPENDIX, N° 4.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 7th September 1779.

READ the following Letter from the Collector of Midnapore.

To the Hon^{ble}. Warren Haſtings, Eſq^{r}. Governor General, and Council, Fort William.

Hon^{ble}. Sir, and Sirs,

In conſequence of a Complaint made ſome Time ago by Sunder Narayn Roy, the Zemindar of Coſſijurah and Shawpore, againſt Coſſinaut, for extorting from him Bonds to a large Amount, during the Period that there was a very conſiderable unaccounted Collection made by Coſſinaut in the Five Years that he was Security for thoſe Pergunnahs, you were pleaſed to give me an Order to ſend a Statement of the Five Years Receipts and Diſburſements of the Securityſhip, for your Information and Deciſion; and which in Obedience to your Orders was done.

I now beg Leave to inform you, that Coſſinaut, without waiting for your final Deciſion upon the Juſtice of his Five Years Agency, has claimed upon his Bonds, and procured a Writ from the Court of Judicature, which he has ſent with a Sheriff's Officer into the Pergunnah to be ſerved againſt the Zemindar:—The Conſequence of which, obliges the Zemindar to conceal himſelf, thereby preventing him from following the Duties of his Station, and exerting himſelf in fulfilling his Engagements to the Company, by the Payment of his Revenues, which muſt of courſe ſuffer. I therefore beg Leave to requeſt, that you will pleaſe to give Directions to the Law Officers to defend and anſwer to the preſent Suit againſt the Zemindar, that he may be once more at Liberty to purſue his neceſſary Duties.

I am,
With great Reſpect, &c.
T. Peiarce.

Midnapore,
4th Sept. 1779.

To Mr. John Peiarce, Collector of Midnapore and Julleſore.

Sir,

We have received your Letter of the 4th inſtant, Copy of which we have referred to the Company's Attorney, from whom you will receive the neceſſary Inſtructions for the Conduct which you and the Zemindar of Coſſijurah are to obſerve on this Occaſion.

We are, &c.

Fort William,
the 7th September 1779.

COSSIJURAH APPENDIX, N° 5.

To George Hodgſon, Eſquire.

Sir,

I Have the Pleaſure to encloſe to you, the Opinion of the Advocate General on the Reference made to him, of the Letter from the Collector of Midnapore to the Honourable Board, on the Subject of the Proceſs which had iſſued from the Supreme Court againſt the Rajah of Coſſijurah.

I am, &c.

Calcutta,
18th October 1779.

(Signed.) N. Naylor,
Attorney to the Hon^{ble} Company.

In the Cauſe,
Coſſinaut
Ver^{s}
Sundernarayn Roy, Zemindar of Coſſijurah and Shawpore.

The Advocate General's Report.

Upon the beſt Conſideration I have been able to give to that Part of the Thirteenth of the King, which enables the Crown to erect the preſent Judicature, and deſcribes the Objects of its Juriſdiction, there is not any thing that can lead me to think it was the Intention of the Legiſlature, that it ſhould in any Caſe extend to the Zemindars of theſe Provinces.—Neither does it appear to me, that the Precautions taken to prevent the iſſuing of Proceſs againſt thoſe whom the Act has not ſubjected to the Juriſdiction, which in framing their Rules of Practice, under the Powers given them by the Charter, the Judicature have adopted, form by any Means a ſufficient Barrier againſt the many Injuries that may ariſe in Caſes, ſuch as that before me, and in many others, as well to the public Revenues as to the Peace and Security of the Maſs of the People, who, though exempt from the Authority of our Laws, and the Juriſdiction of our Courts, have, upon the Ground of Policy, Juſtice, and Humanity, an unqueſtionable Title to our Protection. At Home, where the Laws have all their Energy; and being their own Laws, and having grown up with them, the People, from Habit at leaſt, pay them a willing Reverence, and a prompt Submiſſion, ſtill, if from the ſlow and imperceptible Changes in the Circumſtances of the State, and the Manners of the People, unforeſeen and almoſt unſurmountable Difficulties have often embarraſſed the Execution of them, inſomuch that at Times, rather than depart from Principles, it has been found neceſſary to reſort to Fiction, can it be expected, that in the unauthorized Attempt to bend at once the Temper, Manners, and Prejudices, Cuſtoms, Religion, and Government, of a People, who, beſides a human Form, have no one Thing in common with us, to a Foreign Law, the Wiſdom of the wiſeſt ſhall not be often at a Stand?—The Legiſlature ſeems to have been aware of this, and to have therefore marked the Boundary of the Juriſdiction intended to be given, with ſuch Preciſion, that it will not occur to a common Underſtanding, how a Doubt could ever have exiſted with reſpect to its Extent.—That Obſtacles upon this Head ſhould now ariſe in the Way of Judicature, ſeems leſs extraordinary than that they did not find themſelves obſtructed at their Outſet by Difficulties, which, as Caution had not avoided, no Management could ſurmount. It has been their good Fortune however, and that of thoſe who have an Intereſt in the Preſervation of theſe Provinces, that they had pliant Matter to work upon, and where that is the Caſe much may be affected by Temper, Moderation, and Addreſs. But if with our firſt Eſtabliſhment, progreſſive Riſe, and preſent Tenure in this Country before their Eyes, and we and our Courts, with every Sanction that Parliament has given, ſtill ſtanding (as far as relates to the Rights of the Natives) upon the problematical Title and queſtionable Ground we do, they ſhall upon their own Application of the only Word in the Act that admits of a Latitude of Conſtruction, and contrary to the evident Intention of the Legiſlature, perſevere in their Endeavour to ſubject to their Juriſdiction every Claſs and Deſcription of Men throughout theſe Provinces; or what is tantamount thereto, if, before they could have acquired a thorough Knowledge of the Scene, having once adopted, they ſhall ſtill adhere to a Mode of deciding upon every Plea to their Juriſdiction, inadequate to its profeſſed Purpoſe, and every Way exceptionable as the preſent; the Evils that may follow are too obvious to need Enumeration, and if they may be avoided, are too many and too ſerious to be endured.

In a Choice of Difficulties, it is the Part of Wiſdom to encounter the lighteſt; and when it ſhall come to be a Queſtion, Whether the few remaining Rights of a People, to whom we have left but little, of which we would deprive them, ſhall be invaded? the national Character lowered, the Meaſures of Government impeded, and the moſt promiſing Reſources of the State injured and endangered, or the Rules and Practice eſtabliſhed by the Judges, in ſome Caſes, that are more than doubtful, diſregarded; I am bold to affirm, that it will be the Duty of the Governor General and Council (attending to the great and important Truſt repoſed in them) to hazard the latter, and leave the Caſe, under all its Circumſtances, to juſtify them to the Company and the Nation. And in the Diſcharge of the Duties of my Office, that I may not ſeem to ſhun my Share of the Reſponſibility, I adviſe, that in the Caſe now referred to me, the Zemindar have Notice, that not being ſubject to the Juriſdiction, he ſhall not appear, or plead, or do or ſuffer any Act which may amount on his Part to a Recognition of the Authority of the Judicature, as extending to himſelf.—In the ſhort Interval ſince my Arrival in this Country, Doubts with reſpect to the Juriſdiction have been ſubmitted to me, in various Forms and from many different Quarters; in the Hope, however, that the Wiſdom and Moderation of the Judicature, with the Aid of Five Years Experience, would diſcover and obviate the many Miſchiefs that muſt flow from the Aſſumption of an undefined, where the Crown has given a limited, Juriſdiction I have hitherto heſitated to give that public and decided Opinion, which upon the general Queſtion, I can now no longer withhold, and which (ſeeing it is unavoidable) may as well be given in this, as in any future Caſe. Having, therefore, conſidered this Queſtion in all its Parts, and with a Degree of painful Apprehenſion, and the moſt ſerious Solicitude, having followed through all its poſſible Conſequences the Counſel I am about to give, I adviſe, that in all ſimilar Caſes, as well as in the preſent, the Power of Government ſhall not, if called upon, be employed in Aid of the Judicature, but that they be left to their own Means of executing their Proceſs, and thus render themſelves alone reſponſible to the State, for having (ſhould ſuch be the Event) unneceſſarily hazarded the Dignity and Authority of the King's Judicature, by expoſing its Proceſs to Contempt, and its Officers to Reſiſtance and Repulſe.

Calcutta, (Signed) John Day,
October 17th, 1779. Advocate General.

Agreed, in conſequence of the Opinion delivered by the Advocate General, that the following Letter be written to the Collector of Midnapore.

To Mr. John Peiarce, Collector of Midnapore and Jalliſore.

Sir,

Your Letter of the 4th Ultimo having been referred to the Advocate General, we have now to direct, in conſequence of the Opinion which he has delivered upon the Subject of the Writ iſſued againſt the Zemindar of Coſſijurah and Shawpore, at the Suit of Coſſinaut, that the Zemindar have Notice, that not being ſubject to the Juriſdiction of the Supreme Court, he ſhall not appear or plead, or do or ſuffer any Act which may amount on his Part to a Recognition of the Authority of the Judicature, as extending to himſelf.

And to prevent Miſconception, we have cauſed the above to be tranſlated into the Perſian Language, which we now encloſe for the Purpoſe of your communicating it to the Zemindar of Coſſijurah and Shawpore.

If, in conſequence of any Reſiſtance offered to the Sheriff's Officer, Application ſhould be made to you by him for Military Aſſiſtance, you are not to grant ſuch Aſſiſtance, either in this or in any other Inſtance, but to report the Circumſtances of the Caſe to us, and wait our Orders.

We are, &c.

Fort William,
19th October, 1779.

COSSIJURAH APPENDIX, Nº 6.

Extract of the Proceedings of the Governor General and Council in Bengal, in their Revenue Department, the 30th November 1779.

THE Secretary lays before the Board the following Letter from the Company's Attorney:

Sir,

The Writ of Capias, which iſſued from the Supreme Court in the First Inſtance, againſt the Rajah of Coſſijurah, at the Suit of Coſſinaut Baboo, having been returned as unexecuted, a Writ has ſince been ordered to ſequeſter the Lands and Effects of the Rajah, to compel his Appearance to the Action. To enforce the Execution of this laſt Writ, the Sheriff has diſpatched a conſiderable Force to Coſſijurah, conſiſting of Sepoys, and ſome European Sailors, to the Number of Sixty Perſons; I am informed, that they are compleatly armed, and inſtructed to employ their Force in caſe of any Obſtruction being made to the Execution of the Proceſs with which they are charged.

As I conceive it neceſſary, that the Honourable Board ſhould be made acquainted with theſe Circumſtances as early as poſſible, I muſt requeſt you to lay this Information before them at their Firſt Meeting.

I am, Sir,
Your moſt obedient Servant,
(Signed)
N. Naylor,
Attorney to the Honourable Company.

Calcutta,
29th November 1779.

To George Hodgſon, Eſq;
Secretary, &c.

Mr. Naylor, the Company's Attorney, attending, the Board deſire he will inform them of ſuch further Inſtances as have come to his Knowledge relative to this Affair?

Anſwer. In Converſation ſome few Days ſince with the Deputy Sheriff, reſpecting an Oppoſition which he expected would be made to the Execution of the Writ of Sequeſtration, which had iſſued to compel the Appearance of the Rajah of Coſſijurah, he gave me to underſtand, that the Serjeant to whom the Execution of the Proceſs had been committed, was armed, and that he would certainly fire upon any Perſons who obſtructed him in the Execution of this Duty. I am informed that the Force ſpoken of in my Letter now before the Board, which has been ſent up to aſſiſt the Serjeant, are ſupplied with Fire Arms and Ammunition. Upon making Enquiry from whom the Sepoys were ſupplied, I have been led to underſtand, that all, or the greateſt Part of them, have been furniſhed by Coſſinaut Baboo, the Plaintiff in the Action. I am induced to believe this to be true, as I know it has been cuſtomary for Coſſinaut, and other principal Natives, in Calcutta, to retain in their Service Perſons armed and dreſſed as Sepoys, and have myſelf obſerved, in paſſing the Houſe of Coſſinaut, a Perſon anſwering this Deſcription, placed as a Centinel at his Gate.

Queſtion. From whence have the Sailors been obtained, and what Number are there of them?

Anſwer. I imagine they are Sailors who have been diſcharged from Ships in the River, and not in the Employ of any particular Perſons; I have not been able to obtain Information as to the preciſe Number of the Sailors, but a Clerk in the Sheriff's Office informed me, that the Force ſpoken of was partly compoſed of Sailors.

Queſtion. By whoſe Warrant or Authority have all the foregoing Steps been taken by the Deputy Sheriff?

Anſwer. The Writ of Sequeſtration was ordered by Mr. Juſtice Hyde, but as the Inſtructions to the Deputy Sheriff, if given by any of the Judges of the Court, are of a private Nature, and do not appear on their Records, I have no Knowledge of them. I do not find that any Application has been made by the Sheriff to the Court collectively for any Aſſiſtance.

Queſtion. Do you apprehend it to make Part of the private Inſtructions alluded to in your laſt Reply, to put to Death any Perſons who ſhould reſiſt the Proceſs; and that ſuch Inſtructions would be a ſufficient Warrant to the Sheriff for ſo doing?

Anſwer. With reſpect to the Firſt Part of this Queſtion, having no Knowledge of ſuch Inſtructions, I am unable to anſwer it; with reſpect to the Second Part, it is a Point of Law which would in a great Meaſure depend upon Circumſtances.

Reſolved, That the following Letter be written, and immediately diſpatched to the Commanding Officer at Midnapore.

To Lieutenant Colonel Ahmuty, commanding at Midnapore.

Sir,

A Report having been made to us, that a Body of armed Men, to the Number of about Sixty Perſons, conſiſting of a Jemedar and Twelve or Fourteen Natives, habited and armed as Sepoys, with Muſquets and Bayonets, with the like Number of European Sailors armed with Scymitars, and the reſt Peons, armed likewiſe with Scymitars, marched within theſe few Days paſt towards the Chuchla or Diſtrict of Midnapore, intending to proceed to the Dowree or Manſion of the Rajah of Coſſijurah in the ſame Diſtrict, under Colour of ſupporting an Officer of the Sheriff in the Execution of a Writ for ſequeſtering the Lands and Effects of the ſaid Rajah; We hereby require and command you, that for the Preſervation of the Peace and Tranquillity of the Country, immediately on the Receipt of this Letter, you do detach a ſufficient Force from the Battalions under your Command, to intercept and to apprehend any Body or Bodies of Men, who ſhall be found to anſwer this Deſcription within the Diſtricts of Midnapore and Jellaſore, and detain them in your Cuſtody, until you ſhall have made your Report to us, and received our further Orders.

We are,
Sir,
Your, &c.

Fort William,
30th November 1779.

COSSIJURAH APPENDIX, N° 7.

Extract of the Proceedings of the Governor General and Council in their Revenue Department, the 3d December, 1779.

THE Governor General lays before the Board the following Letter from the Company's Attorney, with the Repreſentation of the Rajah of Coſſijurah accompanying it.

To the Honourable Warren Haſtings, Eſq. Governor General.

Sir,

I have the Honour to tranſmit you an Account, which I have received this Morning from the Rajah of Coſſijurah. I attended at the Government Houſe to have delivered it to you, but I was informed by Captain Palmer, that your Engagements would not permit you to be ſpoken with before the Council ſat.

I have the Honour to be, &c.
(Signed) N. Naylor.

Thurſday Morning.

To him who diſtributeth Juſtice to the oppreſſed, Health!

On the 4th of the Month Aughun, 1187, Bengal Style, a Serjeant and Gocul Sircar, on the part of Coſſinaut, together with Thirty Peons, armed with Muſkets, Scymitars, and Targets, paſſed the Two Dowrys, and came into the Houſe of your Petitioner, and with an Intention to ſeal the Houſe; they wanted to enter the Zenana and ſeal it up. On this account your Petitioner's Servants went before, and oppoſing them at the Door, prevented their Entrance; thereupon the ſaid Serjeant ſtruck Three or Four of the Servants with the But of a Firelock, and wounded them; and having wrote a Letter to the Adauluts, he ſent it. He then went into the Chunder Moondoo, and there he and his People took up their Reſidence. Again, on the 14th of the ſame Month, Notice arrived, that Europeans and Sepoys were diſpatched from the Adaulut, and with Powder and Shot were coming to fight. Your Petitioner told his Servants, "Go, and with empty Hands claim the Protection of

" the Gentlemen of the great Council; and though they may kill Two or Three of you, ſay " nothing; for this Reaſon, becauſe we are poor Zemindars, and unable to contend with the People " of the Great Adaulut." The Serjeant, &c. (the People firſt ſent) having received this Account, at the Inſtance of ſaid Gocul, at Midnight, having got ready his People, beat and bound the Doorwan and Chokeydars that guarded the Houſe, and confined them; on this Account all the Servants of your Petitioner, with the Fear of being diſgraced, abſconded. They then, with the ſaid Gocul, broke the Door and entered the Houſe and Zenana, and plundered the Houſe and Effects. Beſides which, in the Morning Fifteen Europeans and Twenty-five Sepoys, armed with Engliſh Muſkets, and Forty Peons (a few of them belonging to the Supreme Court, and many to Coſſinaut) arrived, and ſurrounded the Houſe, and having taken Shooboo Sing and other Servants of your Petitioner, they placed a Guard over them, and diſgraced different People, and wounded and confined others, and ſequeſtered the remainder of the Effects, and ſealed the Door; even thus much did they do, that they entered the Houſe of the Takoo Jew (where no Muſſulman is permitted to go) and Spit in it, and alſo ſtripped it of the Gold and Silver Plate and Ornaments. Such Outrages as theſe were never known to be committed in the Annals of any King, and by this Means a Stop has been put to the Collections. Moreover, Gocul deſired the Farmers not to pay any Hazanna.

In no King's Reign till the preſent Time, ſuch Oppreſſions and Outrages have ever been known to be committed on a Zemindar? What has your Petitioner been guilty of to be thus diſgraced, and his Houſe plundered by the great Adaulut? The Council are the Maſters of the Country, and are the Diſtributors of Juſtice to the poor and oppreſſed. I am in Hopes that you will render me Juſtice. To make this Repreſentation is incumbent on me; whatever is your Pleaſure, be it done. May your Riches and Proſperity ever increaſe.

The Arzee of Rajah Soonder Narrain,
Zemindar of the Pergunnahs, Coſſijurah and Shawpore.

Read the following Letter and Encloſures from the Collector of Midnapore.

To the Honourable Warren Haſtings, Eſq; Governor General, and Members of the Council, Fort William.

Honourable Sir, and Sirs,

Agreeably to your Directions under Date the 19th October, I tranſmitted to the Zemindar of Coſſijurah and Shawpore, the Perſian Tranſlation of the Opinion which the Advocate General delivered upon the Subject of the Writ iſſued againſt him at the Suit of Coſſinaut.

I now beg Leave to incloſe Copies of the Letters I have juſt received from the Sheriff, informing me, that a Writ of Sequeſtration having been iſſued from the Supreme Court of Judicature, againſt the Houſes, Lands, and Effects of Rajah Soondernarrain, of Coſſijurah, and his Officers prevented from carrying the Writ into Execution by the Rajah and his People, he, the Sheriff, was diſpatching other Officers to the Aid of thoſe already at Coſſijurah, and requiring every Aſſiſtance in my Power on their Behalf. On this Letter I requeſt to have your further Orders.

I am, &c.
(Signed) J. Peiarce.

Calcutta,
2d December 1779.

(Copy)

To John Peiarce, Eſq; Chief of Midnapore.

Sir,

I beg Leave to inform you, that a Writ of Sequeſtration againſt the Houſes, Lands, and Effects of Rajah Soondernarrain, at Coſſijurah, at the Suit of Coſſinaut Baboo, has been duly iſſued out of the Supreme Court of Judicature, under which my Officers have ſeized a Part of his Property, and were proceeding to ſeize the Reſt, when they were reſiſted by the Rajah and his Dependants, and prevented from compleating the Execution of the Writ. I received a Letter from my Officer (a Copy of which I now encloſe you) from which you will ſee, the Officers are not only prevented from fully executing the Writ, but are in fact Priſoners under the Rajah, and this they muſt ſubmit to without imminent Danger of their Lives. I am now diſpatching other Officers to their Aſſiſtance, but all that I can poſſibly ſend are far inſufficient to contend with the ſuperior Numbers of the Rajah: I am therefore neceſſitated to make Application to you, and requeſt, that you will, upon the Receipt of this, order every Aſſiſtance in your Power to my Officers, as I am well convinced the Rajah will make no further Reſiſtance when he learns you have interfered.

I now tranſmit you a Copy of His Majeſty's Charter, to which I beg Leave to direct your Attention; and have only now to requeſt that no Time may be loſt in giving me that Aſſiſtance, to which I am clearly entitled by the Charter.

I am, &c.
25th November 1779. (Signed)
J. H. D'Oyley.

COSSIJURAH APPENDIX, Nº 8.

To the Honourable Warren Haſtings, Eſq; Governor General, &c. the Supreme Council of India.

Honourable Sir, and Gentlemen,

I HOPE you will not impute it to any Neglect your not receiving an Anſwer before to yours of the 30th Ultimo, which I was duly hououred with, but I waited to give a circumſtantial Account of the whole Proceedings.

On the 2d Inſtant I detached Two Companies under the Command of Lieutenant Stephen Bomford, with 24 Rounds per Man, with Orders to proceed to the Aſſiſtance of the Rajah of Coſſijurah, to ſeize all ſuch Perſons, Europeans as well as Natives, who were either rioting or plundering, and alſo to ſurround them ſo as to prevent Bloodſhed, which when done, he was to diſarm them and ſecure them in the Cutcherry at Coſſijurah, and wait for further Orders.

I beg Leave to mention that Lieutenant Bomford has acted with as great Prudence as I could wiſh, and took Priſoners the 3d Inſtant to the Amount of 100 People, all well armed, 16 of whom are Europeans, the others Natives.

I was this Morning honoured by yours of the 3d Inſtant, and in Obedience to which, I immediately diſpatched Orders to Lieutenant Bomford, to ſend off the Priſoners for the Preſidency as faſt as poſſible, under a Guard of 1 Soubahdar, 1 Jemmadar, 3 Havildars, 2 Naicks, and 40 Sepoys, with Directions for the Soubahdar to wait on the Honourable the Governor General for further Orders.

I underſtand the Two Court Serjeants brought Budgerous and Two Wollocks with them to Gunga Colly, but as I judged that would not be ſufficient to convey the Sepoys, Baggage, &c. to the Preſidency, I directed Lieutenant Bomford to apply to the Zemindar of Coſſijurah to ſend ſome of his People to Gunga Colly to procure ſmall Country Boats to aſſiſt in tranſporting them up the River.

I ordered Lieutenant Bomford to return with the Remainder of his Detachment to Camp, as ſoon as he ſaw the Priſoners marched off under the Guard.

I hope, Gentlemen, this will meet with your Approbation, as no Time was loſt in the Execution of your Orders.

I have the Honour to remain, &c.
Midnapore, (Signed) Ar. Ahmuty,
5th Dec. 1779. Lieut. Col. Commands the Detachment.

COSSIJURAH APPENDIX, Nº 9.

Opinion of the Advocate General.

IN a former Report in this Cauſe, I have ſtated to the Honourable Board the Reaſoning upon which I ventured to adviſe a Refuſal on the Part of Government of any Aid which might be demanded for the Purpoſe of extending the Juriſdiction of the Supreme Judicature beyond the Limits which according to my Conception the Legiſlature meant to have preſcribed to it.

Any active Obſtruction to its Proceſs was at the Time, however, beyond my Meaning; not becauſe I was aware of Conſequences from an Acquieſcence in the Claim of Juriſdiction early advanced, and ſtill inſiſted upon by the Court, which might be ſo deeply injurious to the Nation's Intereſt, ſo nearly affect the public Tranquillity in theſe Provinces, and at the ſame Time be of ſuch alarming Urgency as would (all other Modes of averting the Evil having been previouſly tried without Succeſs) ultimately warrant even ſuch a Procedure; but becauſe I had a Hope, that temperate Meaſures which might be more eaſily defended at a future Day, would more readily incline the Wiſdom and Virtue of the Judges to recede from the Claim that ſtood only upon their own Conſtruction of the Statute, under which they derive their Authority, and the Admiſſion of which they muſt have long ſince ſeen was incompatible with the Peace and Security of the People.

Every Argument I have hitherto employed, the Honourable Board will obſerve, rather tends to encourage and juſtify the Exerciſe of a ſpirited, liberal, and neceſſary Diſcretion, by Men filling, as they do, in critical Times, a Situation of perilous Reſponſibility, and for the Prevention of a formidable and impending Miſchief, than to mark out to them a Line of Conduct, in which the Law of England will bear them through; a ſtrict Adherence to which, and to its Rules of Practice (as it were the Perfection of Folly to hope they can ever take Root here to the Extent contended for) is therefore, in the Opinion I have already given upon this Subject, as well as in this, clearly and explicitly diſclaimed.

By the Exerciſe of ſuch Diſcretion, ſomething muſt be hazarded; but much more, both in point of perſonal Honour, and of public Benefit, may be hoped for; and the Actors and Adviſers, I am confident, will find their Juſtification with their Superiors, in the ſtrong Neceſſity of the Caſe; their Acquittal with the People of England, in the Feelings and Underſtandings of Mankind; and, ſhould that be neceſſary, their Indemnity from Conſequences, in the Benignity and Wiſdom of Parliament.

Since my Firſt Report in this Cauſe has been given in, an unlooked for Situation has occurred, by which the Board have been compelled to paſs the Line of Neutrality I had firſt ſuggeſted: It does not, however, appear to me, how (ſituated as they were) any other Courſe than that they have taken, can be purſued, without a Deſertion of their Firſt Duty, the Protection of thoſe whom they were appointed to govern.

The Situation of Things which called for the Interpoſition of Government, was as follows:

Notice was received, that a Body of Men, apparelled, armed, and accoutred as Sepoys, ſupported by a ſtrong Party of European Sailors, armed alſo in their own Way, in Contempt and Defiance of the Authority of Government, in Breach of all Order, and to the Terror and Annoyance of the peaceable Inhabitants, upon whom they are ſaid to have committed every Exceſs, were marching through the Province in military Array.

For the Preſervation of the Peace of the Country, as well as for the Prevention of bodily Harm, even to the Rioters, from the Fury of the Natives, who, it was preſumed, would not tamely ſuffer the Pillage of their Houſes, the Outrage offered to their Perſons, the Violation of their Zenanas, and the Pollution of their religious Sanctuaries—but to whom, nevertheleſs, it were not Policy, perhaps, to permit the avenging of their own Wrongs—an Order iſſued from Government, to the Officer commanding the Troops in the Diſtrict, "to intercept and detain the Offenders, till further Orders."

Another Order has followed, directing that they ſhall be eſcorted up to the Preſidency, where, when they ſhall arrive, a Doubt having been ſuggeſted how they ſhall be dealt with (as there will be then no longer any Likelihood of Danger to their Perſons, or Apprehenſion of future Diſturbance to the public Peace) I adviſe that they be inſtantly diſcharged.

It is not improbable, however, that the Outrages they have committed (which are not yet known in their full Extent) may have been ſo enormous, as to call for a criminal Proſecution. In that Event (though for obvious Reaſons I have no Hope of its Succeſs) it will be for the Wiſdom of Government to weigh how far it may be adviſeable to lend it their Sanction and Support.

This having, however, been the firſt Attempt to throw the Country into Confuſion, under Colour of extending and maintaining the Authority of our Laws, that has regularly reached the Knowledge of Government, and becauſe, among other Reaſons which have their Weight, I would try the Effect of Moderation; and thus, in the Event of a future Aggreſſion, leave the Actors in this Buſineſs, and their Employers, without Excuſe; I adviſe, that unleſs a Caſe ſhall come out, beyond Expectation flagitious, all further Proceeding, on the Part of Government, be at this Time relinquiſhed.

If, after ſuch Lenity, they ſhall again attempt, under the ſame Pretext, to return to the ſame Place, and as often as in any other Part of the Provinces ſimilar Violences ſhall happen, it does not appear to me, that the Board (having, for a Purpoſe ſo wiſe and juſtifiable, taken the neceſſary and unavoidable Meaſures they have) can now do otherwiſe than invariably purſue the ſame Courſe, for the Attainment of the ſame End; employing in Aid thereof, for maintaining the public Tranquillity, and the Authority of Government, ſuch other Means as the peculiar Circumſtances of any future Caſe may ſeem to require.

(Signed) John Day,
Advocate General.

Calcutta, 6th December 1779.

COSSIJURAH APPENDIX, N° 10.

To Lieutenant Colonel Ahmuty, commanding at Midnapore.

Sir,

WE hereby direct and command you, that if any Sheriff's Officer, or Perſon aſſuming that Character, ſhall ſerve any Writ upon yourſelf, Lieutenant Bomford, or any Officer, Non-commiſſioned Officer, or Sepoy, of the Detachment lately ordered to apprehend the Party employed and acting under Colour of a Sheriff's Warrant, againſt the Rajah of Coſſijurah, for any Act done in conſequence of our Orders to you of the 30th November laſt, and ſhall attempt to arreſt and take you or him away by Force, you do reſiſt ſuch Attempt, and compel the Perſon making it to depart from the Limits of your Command.

We are, &c.

Fort William,
10th December 1779.

COSSIJURAH APPENDIX, Nº 11.

In the Supreme Court of Judicature, at Fort
William in Bengal.

Plea Side.

Between	Coſſinaut Baboo, — — Plaintiff, and Rajah Soondernarain, — Defendant.

WILLIAM Findlay, of Calcutta, one of the Sheriff's Officers, maketh Oath, and ſaith, That in the Beginning of the Month of November laſt paſt, he this Deponent received a Warrant, upon a Writ of Sequeſtration, directed to him this Deponent, Shaik Jaffer, and others, with Directions from Henry Stark, Eſquire, the then Deputy Sheriff of Calcutta, to go to Coſſijurah in Bengal, to execute a Writ of Sequeſtration in the above Cauſe; and ſaith, That on the Sixteenth Day of the ſame Month of November, he this Deponent arrived at Coſſijurah aforeſaid, accompanied by One Sircar and Fifteen Peons, and One Jemutdar, belonging to the ſaid Sheriff; and ſaith, That on the ſame Sixteenth Day of November, he this Deponent, attended by the ſaid Sircar and Peons, went to the Houſe of the ſaid Rajah Soondernarain, at Coſſijurah aforeſaid, and entered the outer Gates thereof, without any Oppoſition; but ſaith, that upon attempting to paſs the Gate next to the Dwelling Houſe of the ſaid Rajah, he this Deponent was ſtopped by ſeveral People belonging to the ſaid Rajah, who were under the Orders of the Moonſhee, Vakeel, and other principal Servants of the ſaid Rajah, amounting in Number to Five hundred Men and upwards, to the beſt of this Deponent's Belief, who demanded to know who this Deponent was, and for what Purpoſe he came there? to which this Deponent replied, That he was one of the Officers belonging to the Sheriff of Calcutta, and that he came with a Warrant, upon a Writ of Sequeſtration, to ſeize the Effects of the ſaid Rajah; and ſaith, That upon being aſked by ſome of the Rajah's People, By whoſe Orders he came there? he this Deponent informed them, That he came by the Order of the Supreme Court of Judicature at Fort William in Bengal, and by the Order of the Chief Juſtice thereof; and then produced to them the ſaid Warrant, and at the ſame Time explained to them the Conſequences that would attend their giving any Obſtruction or Oppoſition to him this Deponent, in the Execution of the ſaid Warrant; whereupon the Vakeel, or Agent, or Servant, of the ſaid Rajah, told this Deponent, that he did not regard the Order of the ſaid Court, and that he would ſhite upon the whole Court and their Orders; and the Moonſhee of the ſaid Rajah alſo told this Deponent, that the ſaid Rajah was not amenable to the Supreme Court of Judicature at Fort William in Bengal, and bid this Deponent Defiance. This Deponent further ſaith, That he then attempted to affix a Seal on the Gate of the ſaid Rajah's Houſe, but was prevented, and forced therefrom by the ſaid Rajah's Jemutdar and the ſaid other People, who ſeized this Deponent, and forcibly drove him from the ſaid Gate. This Deponent ſaith, That he again attempted to affix a Seal on the ſaid Gate, but was prevented therefrom by One of the ſaid Rajah's People, who held up a Tallawar or Sword, and threatened this Deponent therewith; whereupon this Deponent took from One of the Peons a Blunderbuſs, and told the ſaid People, that if they offered to uſe any Violence againſt him, he would defend himſelf as long as he could, or uſed Words to that Effect; and then wrote and diſpatched a Letter to the ſaid Henry Stark, acquainting him of this Deponent's Situation, and requeſting Aſſiſtance. This Deponent further ſaith, That ſhortly after the before mentioned Tranſaction, the Dewan of the ſaid Rajah came to this Deponent, and told this Deponent, that the ſaid Rajah was not ſubject to the Authority of the ſaid Supreme Court, and that he would not obey the Orders thereof; and that the Seals ſhould not be affixed; and that the ſaid Rajah would obey no Orders but ſuch as came from Mr. Haſtings, Mr. Barwell, and the reſt of the Council; and then ordered this Deponent and the ſaid Sircar and Peons to leave the Houſe; which this Deponent having refuſed to do, the ſaid Dewan ordered the People belonging to the ſaid Rajah then placed at the ſaid Gate, to alarm the whole of the Rajah's People, if this Deponent attempted to leave the Place unknown to him the ſaid Dewan, in order, as this Deponent believes, that he may prevent this Deponent's executing the ſaid Warrant. And this Deponent further ſaith, That the Peons and other People who attended this Deponent, frequently repreſented to him this Deponent, the great Difficulty they were under in getting Proviſions, on account of the Orders given by the ſaid Dewan to all the Country People, to obſtruct the Deponent and his People as much as they could. This Deponent further ſaith, That on the Seventeenth of the ſame Month, the ſaid Jemutdar of Peons who attended this Deponent, informed this Deponent, that the ſaid Rajah was ſending away his Effects; but this Deponent not being able to prevent it, owing to the great Number of the Rajah's People in and about the Houſe, he this Deponent did not attempt to ſtop them. This Deponent further ſaith, That on the Twenty-fifth of the ſame Month, the ſaid Dewan came to this Deponent's Jemutdar, and ordered him, in the Hearing of this Deponent, to quit the Place immediately; whereupon this Deponent directed the Jemutdar not to attend to the Orders of the ſaid Dewan, and told him the ſaid Dewan, that neither he this Deponent, nor any of his Peons or People, would leave the Premiſſes, unleſs he received Orders from the ſaid Supreme Court ſo to do; but that if he received any ſuch Orders from the ſaid Supreme Court, he would immediately quit that Place: On which the ſaid Dewan replied, That the Rajah would proſecute the ſaid Court for Damages. This Deponent further ſaith, That about Two o'Clock in the Morning of the Twenty-eighth of the ſame Month, he this Deponent having diſcovered that the ſaid Rajah and many of his People had quitted the Houſe, and taken with them many of the Effects, affixed Seals on, and poſted Peons at, all the Doors this Deponent could get at: And ſaith, that finding a Number of armed People outſide the Houſe, he this Deponent, being apprehenſive of Danger from them, ſeized them, took from them their Arms, and confined them until Day Light, when this Deponent ſet them at Liberty. This Deponent further ſaith, That about Nine o'Clock in the Forenoon of the ſame Twenty-eighth Day of November, William Saunders, and Fourteen other European Officers of the ſaid Sheriffs, attended by a few Sepoys and Peons, arrived at Coſſijurah aforeſaid, whereupon this Deponent and the ſaid ſeveral other Peons went to ſeveral of the Apartments of the ſaid Rajah, and ſeized ſuch Effects as they found therein, and gave Orders to the Sepoys not to permit or ſuffer any of the Effects to be removed from the ſaid Houſe. This Deponent further ſaith, That upon being informed that the ſaid Rajah's Dewan was the moſt active and vigilant in raiſing and collecting the Country People together, to drive this Deponent off the Premiſſes, he this Deponent, in order, as far as he could, to prevent further Diſturbance, ſeized the ſaid Dewan, and cauſed him to be confined, until this Deponent was taken into Cuſtody, as hereinafter is mentioned. This Deponent further ſaith, That between the Hours of Ten and Eleven o'Clock of the Night of the ſame Day of December laſt, Mr. William Swainſton came to the Houſe of the ſaid Rajah, and enquired of this Deponent who this Deponent was, and on what account this Deponent came there? whereupon this Deponent produced and ſhewed unto the ſaid William Swainſton, the Warrant aforementioned: And ſaith, That the ſaid William Swainſton then aſked this Deponent, What Force this Deponent had with him? of which this Deponent informed him, and told him, That he this Deponent was apprehenſive the Country People would riſe upon him; upon which the ſaid William Swainſton had ſome Converſation with the ſaid Dewan, the Purport of which this Deponent doth not know. This Deponent further ſaith, That after the ſaid Converſation between the ſaid William Swainſton and the ſaid Dewan, he this Deponent aſked the ſaid William Swainſton, Whether he came on the Part of the ſaid Rajah with any Force againſt this Deponent? to which the ſaid William Swainſton anſwered, That he did not; and that he was no Ways concerned in the Matter; for that he was a private Gentleman on his Way to Calcutta, or uſed Words to that Effect; upon which this Deponent, believing that the ſaid William Swainſton came to aſſiſt the ſaid Rajah, ſaid, that it was a Matter of Indifference to him, whether he came to aſſiſt the Rajah or not, as he this Deponent and his People were always on their Guard, and determined to maintain their Poſſeſſion as long as they could, the ſame having been taken by them by lawful Authority, whereupon the ſaid Willaim Swainſton quitted the Place, and about Nine o'Clock in the Morning of the following Day, returned to the ſaid Rajah's Houſe, attended by Two Companies of Sepoys belonging to the United Company of Merchants of England trading to the Eaſt Indies, under the Command of Lieutenant Stephen Bomfort, and acquainted this Deponent, that he the ſaid William Swainſton had an Order from the Governor General and Council, to take him this Deponent and all his People Priſoners; and that if this Deponent or his People made any Reſiſtance, the Sepoys would fire on them; whereupon this Deponent and the ſeveral Perſons then with him, were ſurrounded by the ſaid Sepoys and diſarmed, and the Sepoys, Peons, and other People who accompanied this Deponent, were ſeverely beaten and ill uſed by the Servants or People belonging to the ſaid Rajah; and this Deponent ſaith, that the Sircar who attended this Deponent, was knocked ſenſeleſs on the Ground, by the Strokes given him by the ſaid People; and that during the Time the ſaid Sircar was ſo down on the Ground, the ſeveral Papers and Accounts which had been taken of the Effects ſeized, were taken from him by ſome of the Rajah's People. And this Deponent further ſaith, That the Memorandums, Accounts, Papers, and Cloaths of this Deponent, were taken from him and detained until the following Day; during which Time this Deponent verily believes they were inſpected by the ſaid William Swainſton. This Deponent further ſaith, That immediately after being ſeized as aforeſaid, he this Deponent, and the ſeveral Europeans then with him, were carried to the Cutcherry at Pautapore, where they were confined for Three Days and Nights, under a ſtrong Guard of Sepoys; at the Expiration of which Time, this Deponent and the ſaid other Europeans then with him, were obliged to walk under the ſame Guard in the Heat of the Day, about Ten or Twelve Miles, to their Boats, in which they were brought Priſoners to Calcutta, where they were releaſed ſhortly after their Arrival. This Deponent further ſaith, That, about One o'Clock in the Afternoon of the Firſt Day of this Deponent's Confinement, he this Deponent received a Letter from the ſaid Deputy Sheriff, addreſſed to the ſaid William Saunders, who being abſent from this Deponent, he this Deponent opened the ſame, and not having either Pen or Ink to anſwer the ſame, this Deponent was under the Neceſſity of making ſome Ink with Charcoal, and writing therewith to the ſaid Henry Stark, with a Pen which this Deponent made from a Piece of Bamboo. This Deponent further ſaith, That about Four o'Clock in the Afternoon of the ſaid Firſt Day of this Deponent's Confinement, the ſaid William Saunders, and Five other European Officers of the ſaid Sheriff, were brought Priſoners to the ſame Cutcherry where this Deponent was confined, but were kept in another Part thereof, and were not permitted to ſpeak to this Deponent, nor was this Deponent and thoſe confined with him, during their ſaid Confinement, permitted to take any Proviſions but ſuch as the ſaid Rajah thought proper to ſend to them. This Deponent ſaith, That on the Twenty-eighth of November he this Deponent did confine the Vakeel of the ſaid Rajah, for obſtructing this Deponent in affixing the Seals on the Effects he had ſeized, and for threatening to raiſe the Country againſt this Deponent. This Deponent further ſaith, That during the ſaid Confinement of this Deponent and the ſaid other Officers of the ſaid Sheriff, the ſeveral Goods, Lands, and Effects of the ſaid Rajah Soondernarain, which this Deponent and the ſaid other Officers of the ſaid Sheriff had ſeized and taken Poſſeſſion of by virtue of the ſaid Warrant, were reſcued from this Deponent and the ſaid Officers, by the ſaid William Swainſton, Stephen Bomfort, and others under their Command or acting under their Orders; and this Deponent and the ſaid other Officers were unable to reſeize or take the ſame again.

Sworn the 15th Day
of January 1780,
before me,
J. Hyde.

Wm Findlay.

Read 18th January, 80.
James Forbes,
Readg Clk.

COSSIJURAH APPENDIX, N° 12.

In the Supreme Court of Judicature at Fort
William in Bengal.

Plea Side.

Between Coſſinaut Baboo, — — Plaintiff,
and
Rajah Soondernarain, — Defendant.

CHOITUN Byſaack, one of the Clerks of Richard Litchfield, Eſquire, Prothonotary of this Court, and Hyderam Bonagee, Banyan to Mr. George Wroughton, one of the Attornies of this Court, ſeverally make Oath and ſay; and firſt this Deponent Choitun Byſaack ſaith, That ſome Time in the Month of October laſt he received, in the Office of the ſaid Richard Litchfield, a certain Paper Writing, purporting to be a Warrant of Attorney, bearing Date the Twelfth Day of the ſaid Month of October, which this Deponent underſtood and believed came from the ſaid George Wroughton, authorizing the ſaid George Wroughton to appear in this Cauſe for the Defendant abovementioned; and that in conſequence thereof, he this Deponent did enter an Appearance for the ſaid Defendant, as of the Twenty-ſecond Day of the ſaid Month of October; and this Deponent further ſaith, that the Warrant of Attorney abovementioned is the only Warrant of Attorney filed in this Cauſe for the ſaid Defendant; and this Deponent further ſaith, that he has ſhewn the ſaid Warrant of Attorney to the ſaid Hyderam Bonagee. And the ſaid Hyderam Bonagee, for himſelf, ſaith, That he was preſent on the ſaid Twelfth Day of October, and did ſee Parbutty Chum Ghoſe, who informed this Deponent that he was the Agent or Vakeel of the ſaid Defendant, ſign the ſaid Warrant of Attorney, now ſworn to be ſhewn to him this Deponent by Choitun Byſaack, the other Deponent abovementioned; and that this Deponent has ſubſcribed his Name as a Witneſs to the due Execution of the ſaid Warrant of Attorney by the ſaid Parbutty Chum Ghoſe.

Choitun Byſaack.
(Signed in Characters)

Sworn this 18th Day of
January 1780,
before me,
J. Hyde.

Read 18th of January, 1780.
James Forbes,
Readg Clerk.

True Copy.
Wm Johnſon,
Clerk of the Crown.

COSSIJURAH APPENDIX, Nº 13.

In the Supreme Court of Judicature,
at Fort William, in Bengal.

Plea Side.

Between { Coſſinaut Baboo, — Plaintiff;
and
Rajah Soondernarain, Defendant.

COSSINAUT Baboo, of Calcutta in Bengal, Inhabitant, the Plaintiff in the above Cauſe, maketh Oath, and ſaith, Rajah Soondernarain, the Defendant abovenamed, now is, and for ſeveral Years laſt paſt hath been indebted unto this Deponent in a conſiderable Sum of Money; and this Deponent further ſaith, That the ſame Debt having in a great Part ariſen by Reaſon of this Deponent's having been, with the Approbation of the late Preſident and Council of Fort William, appointed to take upon him, this Deponent, the Management of the Zemindary Buſineſs of the ſaid Defendant; he this Deponent, on the ſame Buſineſs being concluded, and after having waited a long Time, and endeavoured to obtain Payment of his Debt from the ſaid Rajah Soondernarain, without Effect, thought it was proper to apply to the Governor General and Council of this Preſidency, to ſee if they would aſſiſt this Deponent therein, as the ſame Debt had ariſen by the Means aforeſaid; wherefore this Deponent, ſome Time in or about the Month of September or October, in the Year of Chriſt One thouſand Seven hundred and Seventy-ſeven, applied to the Governor General and Council of Fort William, to aſſiſt this Deponent in the obtaining Payment of the Debt due to him as aforeſaid; which Application this Deponent afterwards renewed, and continued to ſolicit the ſaid Governor and Council for the Purpoſe aforeſaid, until about the Month of Auguſt One thouſand Seven hundred and Seventy-nine, without Effect; and this Deponent further ſaith, That on finding he could not obtain the Payment of the ſaid Debt from the Defendant, or any Aſſiſtance from the ſaid Governor and Council in the Recovery thereof, he this Deponent determined to commence an Action in this Honourable Court againſt him the ſaid Defendant, and ſome Time in or about the ſaid Month of Auguſt laſt paſt did commence ſuch Action. And this Deponent further ſaith, That about Eight or Ten Days after the Commencement of the ſame Action, this Deponent, on ſeeing Warren Haſtings, Eſquire, the Governor General, acquainted him of the ſame Action being commenced, upon which the ſaid Warren Haſtings ſaid to the Deponent, "You have acted badly; why have you complained in the Court? you are going to ruin yourſelf and Family;" or uſed Words to that or the like Effect. To which this Deponent replied, That he did not want to ruin himſelf, but that as the ſaid Defendant was conſiderably indebted to him this Deponent, and that he this Deponent from having no Place or Appointment, could not afford to loſe ſo much Money, and that he this Deponent had been for Two Years ſoliciting the ſaid Warren Haſtings, and Richard Barwell, Eſquire, one other of the Members of the ſaid Council, to compel the ſaid Defendant to ſettle with and ſatiſfy this Deponent, without any Effect, ſo this Deponent was neceſſitated to bring the ſame Action; or uſed Words to that Purport. Whereupon the ſaid Warren Haſtings then told this Deponent, That he this Deponent, by commencing the ſaid Action, would bring a great Loſs upon himſelf and upon the Company. Upon which this Deponent aſked the ſaid Warren Haſtings, why the Company ſhould loſe by his this Deponent's bringing this Action, as the ſaid Defendant, and not the Company, were indebted to him? to which the ſaid Warren Haſtings, in Reply, aſked this Deponent if he wanted to make the Zemindars ſubject to the Supreme Court? whereupon this Deponent ſaid, That he did not wiſh to injure the Company; and that if he the ſaid Warren Haſtings would ſettle the Matter between this Deponent and the Defendant, he this Deponent would be ſatisfied, and not proceed in this Cauſe. Upon which the ſaid Warren Haſtings told this Deponent, that it was very well; and bid this Deponent then go. And this Deponent further ſaith, That in the Month of October laſt one Currein Ullah, a Servant called Chubdar, belonging to the ſaid Warren Haſtings, came to this Deponent's Houſe, and told this Deponent, that the ſaid Warren Haſtings deſired that this Deponent would go that Night, or early the next Morning, to Captain William Palmer, who at that Time was, or, as this Deponent verily believes, acted as Aid de Camp to the ſaid Warren Haſtings; in conſequence whereof this Deponent, in the Morning of the following Day, went to the ſaid William Palmer, who told this Deponent that the ſaid Warren Haſtings and the Council were very angry and much diſpleaſed with this Deponent for bringing this Action, for that there would be a great Conteſt or Diſpute between the Court and the Governor and Council on account thereof, and that therefore this Deponent ought to diſcontinue the Suit; and deſired this Deponent to go to his Attorney, and direct him to diſcontinue the Action, and that he the ſaid William Palmer would write to the ſaid Warren Haſtings about it, as the ſaid Warren Haſtings was at that Time abſent from Calcutta. And this Deponent ſaith, That he this Deponent then informed the ſaid William Palmer, that he this Deponent did not wiſh or deſire to make any Difference between the Court and the Council; but that he had attended the Governor and Mr.

Barwell, and ſolicited them for Two Years to aſſiſt him in the Recovery of his Debt, and not being able to obtain any Redreſs from them, he this Deponent was driven to the Neceſſity of bringing this Action; but nevertheleſs, if the ſaid Warren Haſtings would undertake to ſettle the Matter in a few Days, he this Deponent would diſcontinue the Suit. To which the ſaid William Palmer replied, That the ſaid Warren Haſtings would be in Calcutta on the Monday following, and that if this Deponent would come to him the ſaid William Palmer, he would accompany him to the ſaid Warren Haſtings. This Deponent further ſaith, That in conſequence of ſuch Directions, he this Deponent went to the Houſe of the ſaid William Palmer on the following Monday, and having been there informed, that the ſaid William Palmer was gone out of Calcutta, he this Deponent went to the Houſe of the ſaid Warren Haſtings, who immediately on ſeeing this Deponent, aſked this Deponent, if he had diſcontinued the Suit? (meaning, as this Deponent underſtood and believes, the Suit againſt the above named Defendant) to which this Deponent replied, He had not: Whereupon the ſaid Warren Haſtings ſaid to this Deponent, It is with your own Inclination that you are going to loſe your Money, but do as you pleaſe. This Deponent thereupon requeſted the ſaid Warren Haſtings to take one Hour's Trouble to ſettle the Matter, and he this Deponent would diſcontinue the Action; but to this, the ſaid Warren Haſtings made no Reply. And this Deponent further ſaith, That ſome little Time after ſuch the laſt-mentioned Converſation, he this Deponent went to Mr. North Naylor, one of the Attornies of this Honourable Court, and who this Deponent believes acts as the Attorney for the Company, and enquired of him, whether he was Attorney for the Defendant in this Cauſe? and upon being anſwered, that he was not; he this Deponent related to the ſaid North Naylor what had paſſed between the ſaid Warren Haſtings and this Deponent, on the Subject of this Cauſe; and requeſted the ſaid Mr. Naylor to inform the ſaid Warren Haſtings, that if he the ſaid Warren Haſtings would ſettle the Matter himſelf, or direct the ſaid Mr. Naylor to ſettle it, he this Deponent would be ſatisfied, and would diſcontinue this Action: And this Deponent ſaith, That the ſaid North Naylor did ſome Days afterwards inform this Deponent, That he had ſpoke to the ſaid Warren Haſtings as requeſted by this Deponent, but that the ſaid Warren Haſtings made no Reply thereto, but ſeemed very angry, or to that Effect.

(Signature in Nâgree.)

Sworn the 15th Day
of January 1780,
Before me,
J. Hyde.

Read and interpreted by me,
Oſ. Petruſe,
Aſſ. Int.

Read 18th of Jan^y. 1780.
Jam^s. Durnford,
Reads Clerk.

True Copy.
W^m. Johnſon,
Clerk of the Crown.

COSSIJURAH APPENDIX, N° 14.

In the Supreme Court of Judicature, at
Fort William in Bengal.

Court of Pleas.	Coſſinaut Baboo —	— Plaintiff.
	Rajah Soondenarain	— Defendant.

HYDERAM Bonnajee, Banyan to Mr. Geo. Wroughton, Attorney at Law, maketh Oath, and ſaith, That on or about the 12th Day of October laſt, Parbutty Churn Goſe, Vakeel or Agent of Rajah Soondernarain, Defendant of the above Cauſe, came to him this Deponent, at the Court Houſe, and informed him, that Coſſinaut Baboo had commenced an Action againſt the ſaid Defendant, and that he was deſirous of appearing to the ſaid Action; and that the ſaid Rajah Soondernarain had intruſted him to put in Bail to the ſame; and this Deponent further ſaith, That the ſaid Parbutty Churn Goſe deſired him this Deponent to introduce him to the ſaid Geo. Wroughton, for the Purpoſe of ſigning a Warrant of Attorney, and to give Inſtructions to put in Bail; and ſaith, That he this Deponent did accompany him to the ſaid Geo. Wroughton's Office, where the ſaid Parbutty Churn Goſe, in Preſence of him this Deponent, ſigned a Warrant of Attorney to appear to the Action, on Behalf of the ſaid Rajah Soondernarain, at the Suit of the ſaid Coſſinaut Baboo, as likewiſe a general Power of Attorney, to authoriſe the ſaid Geo. Wroughton to appear and defend all Actions that might be brought in the Supreme Court againſt the ſaid Rajah Soondernarain by any other Perſon whatſoever. And this Deponent further ſaith, During Eight or Ten Days after ſuch Warrants of Attorney were ſigned as aforeſaid, he frequently applied to the ſaid Parbutty Churn Goſe, for the Names of the Bail, but the ſaid Parbutty Churn Goſe delayed from Day to Day, under ſome trifling Pretence, till at laſt he applied to him this Deponent, and requeſted to have the Warrant of Attorney back, and informed him, that he did this becauſe Richard Barwell, Eſquire, and Mr. North Naylor, were very much diſpleaſed with him for ſigning the Warrants of Attorney, and would not allow him to put in Bail to the Action; that the ſaid North Naylor in particular was very ſevere upon him, and threatened and called him a Number of abuſive Names, and told him, that if he did not get the Warrants of Attorney back from the ſaid George Wroughton, that he the ſaid North Naylor would write to the ſaid Rajah Soondernarain, to get him the ſaid Parbutty Churn Goſe turned out of Place. And this Deponent further ſaith, That the ſaid Parbutty Churn Goſe, after that Time, made frequent Applications to him this Deponent, to intercede with the ſaid George Wroughton to deliver up the Warrants of Attorney; and always urged, that the ſaid North Naylor and Richard Barwell prevented him from putting in Bail, and ordered him to get back the Warrants of Attorney. And this Deponent laſtly ſaith, That he verily believes, that neither of the ſaid Warrants of Attorney have ever yet been delivered back.

Sworn the 15 January 1780,
before me
J. Hyde.

(Signed in Characters.)

Read 18 January 1780.
James Forbes,
Reads Clerk.

True Copy. Wm. Johnſon,
Clerk of the Crown.

COSSIJURAH APPENDIX, Nº 15.

In the Supreme Court of Judicature, at
Fort William in Bengal.

Coſſinaut Baboo — — Plaintiff.
Vs.
Rajah Soondernarain — Defendant.

WILLIAM Lewin, Clerk to Harry Stark, Deputy Sheriff of the Town of Calcutta, maketh Oath, and ſaith, That on or about the Twenty-fifth Day of November laſt, William Saunders, one of the Officers of the Sheriff of Calcutta, with about Sixteen Europeans and a conſiderable Number of Peons or Black Officers, and ſome Sepoys, were diſpatched from Calcutta for Coſſijurah, to the Aſſiſtance of William Findlay, one other Officer of the Sheriff of Calcutta, who, as this Deponent has been informed, and believes, had been reſiſted in executing a Writ of Sequeſtration in the above Cauſe at Coſſijurah aforeſaid. And this Deponent further ſaith, That on the Twenty-ſeventh Day of the ſame Month, according to the beſt of his Recollection and Belief, but poſitively before the Thirtieth, Mr. North Naylor, Attorney at Law for the United Company of Merchants of England trading to the Eaſt Indies, came to the Sheriff's Office, and informed him this Deponent, that he had heard that a great Number of Men were ſent down on the Coſſijurah Buſineſs, meaning, as he this Deponent verily believes, the Party that were ſent down to aſſiſt on executing the Writ of Sequeſtration aforeſaid; and ſaith, that the ſaid North Naylor told him, that he had heard there were ſome Sailors employed, and enquired of him this Deponent, how they were procured? he then ſaid, That he was informed, that Two or Three hundred People were ſent on the Expedition, and deſired to know if he this Deponent could tell him the Number ſent? And this Deponent further ſaith, That he anſwered the ſaid North Naylor, that he could not ſay how many were ſent, but believed that the Number did not exceed One hundred: And this Deponent further ſaith, That the ſaid North Naylor ſeemed deſirous of knowing the Particulars of this Buſineſs, and the Number of Men [illegible] upon the Occaſion aforeſaid, and verily believes that it was not mere Curioſity that induced the ſaid North Naylor to make ſuch Enquiry, and that he had private Reaſons for the ſame, which he did not chooſe to diſcloſe to him this Deponent, and that he certainly meant to make ſome Uſe of the Information he received. And this Deponent further ſaith, That he has been informed, and believes it to be true, that all the Officers of the Sheriff who were ſent upon the Buſineſs aforeſaid, were afterwards taken Priſoners by a large Party of Sepoys or Soldiers; and that he this Deponent believes, that this was done with the Privity of the ſaid North Naylor; and that his Reaſon for making the Enquiry abovementioned, was to know what Number of Men were ſufficient to ſend againſt the Officers of the Sheriff, who were ſent to Coſſijurah upon the Occaſion above ſtated.

Sworn this 15th Day of January,
before me,
J. Hyde.

Wm Lewin.

True Copy.
Wm Johnſon,
Clerk of the Crown.

Read, 18th January 1780.
Jas Durnford,
Readr Clerk.

COSSIJURAH APPENDIX, Nº 16.

In the Supreme Court of Judicature
at Fort William in Bengal.

Court of Pleas.

Coſſinaut Baboo, - Plaintiff,
Vs
Rajah Soondernarain, Defendant.

KERTY CHUNDER, One of the Sircars of the Sheriff of Calcutta, maketh Oath, and ſaith, That on or about the Thirteenth Day of November laſt, he left Calcutta in Company with William Findley, one of the Officers of the Sheriff, who had a Warrant upon a Writ of Sequeſtration againſt the Effects of the Defendant above-named; and that on or about the Sixteenth of the ſame Month they arrived at Coſſijurah; and on the ſame Day the ſaid William Findley and him this Deponent, with ſeveral Peons or Black Officers of the Sheriff, went to the Dwelling Houſe of the ſaid Defendant, with an Intention to ſeize the ſame, and what Effects were therein, by virtue of the Warrant abovementioned; and had entered the outer Gate of the ſaid Dwelling Houſe without any Oppoſition, and were proceeding towards the inner Apartments, when they were oppoſed and prevented by a great Number of armed Men, who called themſelves Servants of the ſaid Defendant, not under Three hundred as he this Deponent verily believes; and further ſaith, That when they were in this Manner obſtructed and prevented from executing the Writ, he this Deponent explained the Nature of the Warrant, and informed them, that he came from the Supreme Court; upon which a Perſon who called himſelf the Uncle of the Defendant, told him, that he diſregarded the Orders of the Supreme Court; that the Governor and Council had declared, That the ſaid Defendant was not ſubject to the Juriſdiction of the Court, and forbid him to allow any Seal from the ſaid Court to be put on his Effects, and that he would therefore allow no Seals to be put on, unleſs by the Authority of the Supreme Council, that he would then ſubmit to it, but not otherwiſe.—And this Deponent further ſaith, That the ſaid William Findley was during this Time ſurrounded by a great Number of the armed Men abovementioned, who would not allow him to affix any Seals upon the Houſe, or ſeize any of the Effects of the ſaid Defendant: And this Deponent further ſaith, That the Servants of the ſaid Defendant did then ſeize and lay hold of the ſaid William Findley, and forcibly drive him with all the other Officers of the Sheriff, as likewiſe him this Deponent, from the inner Yard or Compound in which they then were, and would not permit the ſaid William Findley to proceed further in the Execution of the ſaid Writ.—And this Deponent further ſaith, That the ſaid William Findley, and the other Officers of the Sheriff, did then remain in an outer Apartment of the ſaid Houſe, and that he believes that the ſaid William Findley did write a particular Account of the Tranſaction to Mr. Henry Scarle, Deputy Sheriff of Calcutta aforeſaid, and requeſted that he would ſend a greater Number of Officers to complete the Execution of the ſame Writ.—And this Deponent further ſaith, That between the Sixteenth and Twenty-ſeventh of the ſaid Month of November, frequent Applications were made by the Servants of the ſaid Defendant to the ſaid William Findley to leave Coſſijurah; but that the ſaid William Findley poſitively refuſed.—And this Deponent further ſaith, That a Proclamation was made by the Servants of the ſaid Defendant, forbidding any of the Inhabitants to furniſh Proviſions or Neceſſaries to the Officers of the Sheriff.—And this Deponent further ſaith, That the ſaid William Findley and the other Officers remained there, without making any further Seizure, until about Two or Three of the Clock in the Morning of the Twenty-eighth of the ſame Month of November, when they were informed, that the Defendant and the greater Part of his Servants had fled, and carried with them a great Part of his Effects; and ſaith, that the ſaid William Findley, and the other Officers, did then enter the inner Apartments of the ſaid Houſe, and ſeize what Effects remained; and that he this Deponent did take an Account of the ſame;—and further ſaith, That about Nine of the Clock of the Morning of the ſame Day, William Saunders, one other of the Officers of the Sheriff, with about Fourteen Europeans, Seventeen Sepoys, and Twenty-five Peons, came to the Aſſiſtance of the ſaid William Findley, and from that Time to the Morning of the Third of December laſt, the ſaid William Findley, William Saunders, and other Officers of the Sheriff, were employed in ſeizing the Effects of the ſaid Defendant; and that he this Deponent was employed in taking an Account of the ſame; and ſaith, That he had taken an Account of a great Quantity of Effects, of ſeveral Houſes and Gardens, and a large Quantity of Land.—And this Deponent further ſaith, That about Nine of the Clock of the Morning of the ſaid Third Day of the ſame Month of December, Two Companies of Sepoys or Soldiers, armed, under the Command of Two Europeans, came to the Houſe of the ſaid Defendant at Coſſijurah aforeſaid, and ſurrounded him this Deponent and all the Officers of the Sheriff who were then preſent, and diſarmed them, and took them Priſoners.—And this Deponent further ſaith, That the Servants of the ſaid Defendant did then violently attack him this Deponent, and beat and bruiſe him until he fell ſenſeleſs upon the Ground, and took from him all his Papers and Accounts of the Effects, Houſes, and Lands that were ſo ſeized as aforeſaid; and that the ſaid Papers and Accounts have never ſince been returned to him this Deponent, or to any Body elſe on his Account, to the beſt of his Knowledge and Belief.

Sworn this 15th January 1780,
before me,
J. Hyde.

(Signature in Bengalee.)

Read and interpreted by me,
Oſ. Petruſe,
Aſſt. Intr.

Read the 18th January 1780.
James Durnford,
Reading Clerk.

True Copy.
Wm Johnſon,
Clerk of the Crown.

COSSIJURAH APPENDIX, N° 17.

In the Supreme Court of Judicature
at Fort William, in Bengal.

Court of Pleas.

Coſſinaut Baboo, — Plaintiff.
v.
Rajah Soondernarain, – Defendant.

WILLIAM Saunders, One of the Officers of the Sheriff of Calcutta, maketh Oath, and ſaith, That on or about the Twenty-fifth Day of November laſt, he received a Warrant on a Writ of Sequeſtration in the above Cauſe, directed to him this Deponent, and John Singleton, Daniel Dangerfield, Samuel Leett, Hector McLean, John Rogers, John Hancock, William Hopkins, Charles Brown, Ralph Scales, and John Kinnear; and at the ſame Time was told by Mr. Harry Stark, Deputy Sheriff, that another Warrant upon the ſame Writ had been before that Time delivered to William Findlay, One other of the Officers of the Sheriff; and that the ſaid William Findlay had proceeded to Coſſijurah, and partly executed the ſame upon the Effects of the Defendant, but had been reſiſted by the ſaid Defendant, and his Servants, and prevented from completing the Execution thereof; that he this Deponent was inſtructed by the ſaid Harry Stark to go to the Aſſiſtance of the ſaid William Findlay, with the ſaid John Singleton, Daniel Dangerfield, Samuel Leett, Hector M'Lean, John Rogers, John Hancock, William Hopkins, Charles Brown, Ralph Scales, and John Kinnear, above named, beſides a conſiderable Number of Peons and Sepoys with Arms, in order to complete the Execution of the ſaid Writ. And this Deponent further ſaith, That before he and the ſaid John Singleton, Daniel Dangerfield, Samuel Leett, Hector M'Lean, John Rogers, John Hancock, William Hopkins, Charles Brown, Ralph Scales, and John Kinnear, left Calcutta, they were all called before the ſaid Harry Stark, when he particularly explained the Nature of their Duty, and ſtrongly cautioned them againſt giving the ſmalleſt Offence to any of the Natives, or interfering with any Perſon, in any Manner further than was abſolutely neceſſary for the Purpoſe of executing the Writ, and to do that in the moſt inoffenſive Manner poſſible. And this Deponent further ſaith, That the ſaid Harry Stark agreed to pay, and did pay, to the ſaid John Singleton, Daniel Dangerfield, Samuel Leett, Hector M'Lean, John Rogers, John Hancock, William Hopkins, Charles Brown, Ralph Scales, and John Kinnear, at the Rate of Three Rupees a Day each, while they were abſent upon the ſaid Duty; and further, to prevent them, as much as in his Power, from having any Kind of Interference with the Natives, agreed with him this Deponent, to provide them with Victuals, Liquors, and every Kind of Neceſſaries, from the Time they left Calcutta until they ſhould return; and likewiſe inſtructed him this Deponent to be very watchful over them, to prevent them from being intoxicated; but at the ſame Time deſired him to give them as much Liquor as he thought neceſſary and proper, but by no Means to allow them to purchaſe any Thing for themſelves; and to prevent them, if they were inclined, from meddling, in any Shape, with any of the Natives, on their Way down, or on their Way from, Coſſijurah. And this Deponent further ſaith, That he did, in conſequence of ſuch Inſtructions, furniſh them with Victuals, Liquors, and other Neceſſaries, from the Day they left Calcutta until they were all taken Priſoners, as hereinafter mentioned; and that he this Deponent did pay for every Thing that was furniſhed by the Natives for his Uſe, or for the Uſe of any of his Party, to his Knowledge. And this Deponent further ſaith, That from the Day he left Calcutta to the Day he returned, no Kind of Outrage was committed upon any Perſon whatſoever, by him or any of his People, to the beſt of his Knowledge or Belief: And further ſaith, That on the Morning of the Twenty-eighth of November laſt, he this Deponent, with his Party, joined the ſaid William Findlay at Coſſijurah aforeſaid, and was by him informed, that the Defendant had left Coſſijurah early that Morning, and carried with him a great Part of his Effects; that the ſaid William Findlay was then in Poſſeſſion of his Dwelling-Houſe, and had before that Time made Priſoners of ſome of thoſe who had before reſiſted him in executing the Writ; and that from that Day until the Third Day of December laſt, he this Deponent, the ſaid William Findlay, and the reſt of the Party, were employed in ſeizing what Effects remained, and did ſeize ſeveral Houſes, Gardens, and a very large Quantity of Land, a particular Account of which was taken by Sircars or Writers who attended for that Purpoſe, but which was afterwards taken from them, as he this Deponent was informed, and believes, by the Servants of the ſaid Defendant. And this Deponent further ſaith, That on the Third Day of the ſame Month of December, after returning from the Seizure of a Garden of the ſaid Defendant, he was ſurprized to ſee a great Number of People armed with Firelocks, Spears, Swords, Bludgeons, and other Weapons of Offence, which made him this Deponent proceed with all the Expedition poſſible towards Coſſijurah. ~~And this Deponent further ſaith,~~ That upon his Arrival there he found it in the Poſſeſſion of a great Number of Sepoys or Soldiers under Arms, who immediately ſurrounded him this Deponent and his Party, and diſarmed them, and carried them before a Perſon, who this Deponent believes was the Dewan of the Defendant, and then before a Lieutenant Stephen Bomfort and Mr. William Swainſton: And ſaith, That the ſaid William Swainſton enquired for the Officer who executed the Writ: That he this Deponent anſwered it was him, and that he acted under the Authority of the Supreme Court, and at the ſame Time preſented the Warrant under which he acted. The ſaid William Swainſton then deſired to know the Name of this Deponent, which was immediately told him; he this Deponent then aſked the ſaid William Swainſton, by what Authority he and his People were taken Priſoners; the ſaid William Swainſton anſwered, by an Order from the Governor: He this Deponent then requeſted to ſee the Authority, as he did not conceive the ſaid William Swainſton had any Right to confine him; but he refuſed to ſhew it, and forbid him this Deponent to be inſolent: He this Deponent then aſked the ſaid Stephen Bomfort, by whoſe Orders he acted? who anſwered, by the Orders of Colonel Aughmutty. And this Deponent further ſaith, That the ſaid William Swainſton then directed the ſaid Stephen Bomfort to ſend him this Deponent and all his People to the Guard, which the ſaid Stephen Bomfort immediately did. And this Deponent further ſaith, That his Cheſt, in which all his Cloaths were, was ſeized and taken Poſſeſſion of by the Guard under the ſaid William Swainſton and Stephen Bomfort; that ſome Things have never yet been delivered, in particular a Silver Inſtrument for cleaning the Tongue, a Glaſs Tumbler, and a Water Pot, and ſeveral other Things; and that the Cheſt was not delivered till the Third Day from the Time it was ſeized: And that the ſaid William Swainſton directed, that it ſhould be opened in Preſence of the Defendant's People, to ſee if there were any of the Defendant's Goods in the Cheſt, that they might claim the ſame, which was done, and every Thing particularly examined, but nothing

thing claimed. And this Deponent further ſaith, That he and all his People were confined from the ſaid Third Day of December, under Guards of Sepoys or Soldiers, with fixed Bayonets, at Pattapore near Coſſijurah aforeſaid, until the Sixth Day of the ſame Month; and that all the Houſes, Lands, Effects, and Goods, which were before that Time ſeized by him this Deponent, were, during that Time, reſcued and taken from his Poſſeſſion, and out of the Poſſeſſion of the other Officers of the Sheriff, and have remained ſo ever ſince. And this Deponent further ſaith, That upon the Fifth Day of the ſame Month of December Two European Gentlemen, whoſe Names he this Deponent does not know, came and told him and the other People with him, that they were come from the Governor to enquire into the Matter; and to take an Account of every Thing that had happened. And this Deponent further ſaith, That from the Day he was taken Priſoner until the Fifth Day of the ſame Month of December, he was not allowed to have any Intercourſe with William Findlay the other Officer; that he this Deponent requeſted to have Liberty to ſpeak with him, and to be together, but that both the ſaid William Swainſton and the ſaid Stephen Bomfort refuſed to allow him this Deponent and the ſaid William Findlay to have any Converſation together. And this Deponent further ſaith, That on the Morning of the Sixth, the ſaid Stephen Bomfort deſired him and the reſt of the Officers of the Sheriff, to be in Readineſs to go to Calcutta, and they, about Ten o'Clock in the Morning, ſet out from the Place where they were before confined, under ſtrong Guards of Sepoys or Soldiers, with fixed Bayonets, and were obliged to walk about Ten or Twelve Miles expoſed to the Sun, and arrived at the River Side, where the Boats were, about Four or Five o'Clock in the Afternoon of the ſame Day. And this Deponent further ſaith, That from the violent Heat of the Sun, and the Fatigue of walking, he turned very faint, and deſired Liberty to reſt, and did ſit down for a few Minutes; but notwithſtanding that it was with the greateſt Difficulty that he could walk, the Soubadar or Black Officer who then had the Command of the Sepoys, ordered him to riſe immediately, and for that Purpoſe raiſed up his Cane to have ſtruck him this Deponent, if he had not immediately got up and walked in the beſt Manner he could, however painful to him. And this Deponent further ſaith, That in the Evening of that Day, he and all the other Officers of the Sheriff were put on Board the Boats, under Guards of Sepoys, with fixed Bayonets, and were kept in this Manner till about Six of the Clock in the Evening of the Eighth of the ſame Month, when they were all brought up to Calcutta and releaſed. And this Deponent further ſaith, That the ſaid Sepoys or Soldiers behaved in a very inſolent and tyrannical Manner to him this Deponent and the other Officers, and that one of them even ſpit in the Face of one of the European Officers; and that they would not allow him this Deponent to uſe any Liquor, or give any to the reſt of the Officers, without giving the Sepoys a Share of it. And that he this Deponent gave a Caſe Bottle of Liquor to the Subadar, for Permiſſion to have Four other Bottles for the Uſe of him this Deponent and the reſt of his People.

Sworn the 15th Day of
January 1780.
before me,
J. Hyde.

Wm Saunders.

Read 18 January 1780,
James Forbes,
Reads Clk.

True Copy.
Wm Johnſon,
Clerk of the Crown.

COSSIJURAH APPENDIX, No 18.

The Advocate General's Report.

THIS is the Second Requiſition of Aid which has been made in the Courſe of this Conteſt, and each accompanied with a Copy of the concluding Clauſe of the Charter of Juſtice by which the Court is created, commanding the Aid, Aſſiſtance, and Obedience, of all His Majeſty's liege Subjects, in executing the Powers, Juriſdictions, and Authorities, that are thereby erected, created, and made.

When upon the Firſt, I adviſed a Refuſal of the Aid required, I adviſed it upon the obvious Neceſſity of a Caſe, to which (being unknown to our Law) none of its Proviſions would apply, and though I was aware of the mandatory Clauſe, of which the Court has in this Caſe ordered

Service upon this Government, and individually upon its Members, it did not throw upon my Mind the ſmalleſt Degree of Doubt or Embarraſſment.

The Language of the Charter as well as that of the Act of Parliament, is of ſuch plain and obvious Meaning, that any Capacity were competent to conſtrue them.

To the plaineſt Underſtanding it is clear that the Mandate of Obedience goes only to the Exerciſe of thoſe Powers, Juriſdictions, and Authorities, that are erected, created, and made by the Charter; and as among them that which the Court thus inſiſts upon, and endeavours to enforce, and its Officers has, in a Manner and by Means unheard of, endeavoured to carry into Effect, does not, to the Apprehenſion of common Senſe, appear to exiſt, the Peril under which Obedience is enjoined did not appear to me ſo formidable as to deter me from adviſing Government to withhold the Aſſiſtance required.

The dangerous and unprecedented Meaſures purſued for compelling (in a Matter which to the moſt enlightened is at beſt involved in Doubt) that inſtant Obedience, which is only due to the clear and poſitive Proviſions of Law, rendered the Neutrality on the Part of Government, which I had adviſed, at once impracticable.

It had been reported to the Board, that a formidable armed Force was marching in Military Array through the Heart of the Province; the Men of whom it was compoſed, were alſo deſcribed to be of a Claſs (Sheriff's Officers and their Peons, European Sailors, armed with Piſtols and Cutlaſſes, and ſupported by a ſtrong Body of Sepoys) not likely to ſhew much Regard to the Peace of the Country, or reſpect to the Cuſtoms and Prejudices of its Inhabitants; the Conſequences to be apprehended from ſuch Aſſumption of the Power of the Sword, which the Conſtitution has excluſively committed to Government, combined with a ſtrong and well-founded Suſpicion of the Legality of the Juriſdiction thus attempted to be exerciſed, and the deepeſt and moſt confirmed Conviction of the Ruin to which, if admitted, it infallibly led, rendered that Reſiſtance unavoidable, which a more temperate Line of Proceeding on the Part of the Court, would probably have prevented; and thus the whole Queſtion (as there is no Power preſent that is competent to decide) might have gone Home in Appeal to the Wiſdom and Authority of the State.

At the Moment when (Reſiſtance being unavoidable) Force was employed, this became a Queſtion of State Neceſſity, to which, as legal Doctrines would no longer apply, they of courſe yielded to a temporary Diſcretion, controllable by Events, and juſtifiable or condemnable under all its Circumſtances, upon the viſible and inevitable Neceſſity of the Caſe.

All then that I can conſider as being referred to me, is to deliberate upon, and ſuggeſt to the Board, ſuch Meaſures as in the preſent State of Things, without wounding the Dignity or impairing the Authority of Government, may preſerve to the Court the Reſpect of the People with the unabridged Exerciſe of the Powers of which it is uncontrovertibly poſſeſſed, leaving thoſe which are merely conſtructive, and therefore diſputable, to hang in Appeal to the common Superiors of both; and alſo, if poſſible, to mark a Line by which, in the Interval, the Embarraſſment and Danger of a Breach between the Two Supreme Departments, may be avoided or diminiſhed. Did this depend only upon the Courſe to be purſued by Government, it were not, I believe, impracticable; but it lies beyond any Sagacity to diſcover a Mode in which Claims may be reconciled, which claſh ſo ſtrongly, the more eſpecially as in either Department, there appears a Diſpoſition to employ, without Heſitation, the Means it is poſſeſſed of for the Attainment of its End; the one, a Power efficient and deciſive for the Prevention of an impending Miſchief, and the other, a Repetition of its Proceſs, which, by multiplying the Difficulties of Government, may widen the Breach, but can neither eſtabliſh the Juriſdiction contended for at this Time, nor facilitate a Deciſion from Home.

The Conduct of Government has throughout this Buſineſs appeared to me defenſible, partly upon a Ground of Law, and partly upon the ſtrong and irreſiſtible Neceſſity of the Caſe; and the latter, which ſuſtains it in its firſt Oppoſition to the Proceſs of the Court, will juſtify ſuch ſubſequent Meaſures as the Line which the Court ſhall take may render unavoidable: In a Word, the Queſtion ſhould be defended in all its Parts and Incidents, or totally and at once abandoned; for a partial and qualified Defence, while it ſtill leaves the Queſtion at large, operates to the Humiliation of Government, by expoſing thoſe who have acted in the Execution of its Orders and in Support of its Authority, to the Reſentment of the Court, which may in this Inſtance fall ſo heavily, as to go to the very Exiſtence of Government, by making it in future a Matter of Deliberation with the Governed, whether it ſhall in any Caſe be obeyed.

The Wiſdom of the Board has already ſeen, and with a ſpirited Deciſion has taken, the only Courſe which, conſiſtently with its Honour, the Maintenance of its Authority, and the Preſervation of the public Peace, could be purſued with reſpect to the Military acting under its Orders.

Of the Two Civil Servants of the Company, who are the Objects of different Orders of the Court, ſtanding in the Predicament they do, as their Submiſſion ſeems to them to be proper and unavoidable, ſo it has been immediate and ſpontaneous. The Company's Attorney has, in obedience to the Rule, anſwered Affidavits which contained no ſpecific Charge againſt him, and in which, though all that is advanced upon Conjecture and Hearſay were eſtabliſhed in Proof, there is not any Thing, I am decidedly of Opinion, that can ſo far criminate him as to juſtify an Attachment. Mr. Swainſton has fairly met the Facts charged in Saunders's Affidavit, with a poſitive Contradiction; his Purgation is therefore effected by his Oath.

Matters ſtanding thus, the latter will find their Security as well in their Innocence as in the Temper and Wiſdom of the Judges, who, I am perſuaded, will in theſe Times cautiouſly avoid any ſtrong Proceeding, which may on its beſt Aſpect wear the Appearance of vindictive Juſtice; and with reſpect to the former, it being now impoſſible, as well in this, as in every ſimilar Caſe that ſhall occur; to recede from the Principle, Government will find Reſources in its own Moderation and Management, till it ſhall be decided by the higheſt Authority, which Department has firſt exceeded its legal Powers, and whoſe of Courſe has been the Aggreſſion.

Calcutta, (Signed) John Day,
the 30th January, 1780. Advocate General.

Public Department, 31ſt January, 1780.

Reſolved, That the Board will abide by the Principles on which they have already proceeded in their Reſiſtance of the illegal Acts of the Supreme Court of Judicature, and that they will inforce and defend the Orders made upon thoſe Principles.

COSSIJURAH APPENDIX, Nº 19.

To the Honourable Warren Haſtings, Eſquire, Governor General.

Honourable Sir,

I HAVE the Honour to encloſe a Sketch of what paſſed in Court this Morning, on the Subject of the Rajah of Coſſijurah, which I have rendered as accurate as the haſty Notes taken while the Affidavits were reading, aſſiſted by my Memory, would admit.

18th January, 1780. I am, &c.
(Signed) Saml Tolfrey.

Coſſinaut Baboo,
v.
Rajah Soondernarain.

Mr. Brix, on the Part of the Plaintiff, moved for an Attachment againſt Mr. William Swainſton, and Lieutenant Charles Bomford, for a high Contempt of Court, in having reſcued the Houſes, Lands, and Effects of the Defendant out of the Poſſeſſion of the Bailiffs of the Sheriff, by obſtructing them in the Execution of their Duty, and overpowering them by Means of an armed Force, by ſeizing and impriſoning the Bailiffs, taking from them their Arms, Books, and Papers, and particularly a Liſt of the Effects taken under the Sequeſtration; by putting them in Boats, and ſending under a ſtrong Guard of Sepoys to Calcutta. He alſo moved, that Rules might be made on Warren Haſtings and Richard Barwell, Eſquires, and Mr. North Naylor, to anſwer the Affidavits. He ſtated the Grounds of his Application to be

The Sheriff's Return.
Affidavit of William Findlay, Sheriff's Officer.
of William Saunders, Do.
of Kerte Chunder, Sircar to Sheriff.
of William Lewin, Clerk, to Do.
Hyderam Bonagee, Banyan to Mr. Wroughton.
Coſſinaut Baboo, the Plaintiff in the Cauſe.

The

COSSIJURAH APPENDIX, Nº 19.

The Return is made by Sir John D'Oyly, and ſtates, that he made his Warrant to Findlay, and others, to ſeize and ſequeſter the Lands, &c. of the Defendant; which ſaid Bailiffs, by virtue of ſuch Authority, proceeded to Coſſijurah, and executed the ſame, and were in the Poſſeſſion of the Premiſſes. That on the Third of December, William Swainſton and Lieutenant Stephen Bomford, with Two Companies of Sepoys acting under their Command, made Aſſaults on the Bailiffs then in Poſſeſſion of the Premiſſes, overpowered, beat, and wounded them, reſcued the Houſe, and took their Arms and Effects, with their Books, Papers, and Accounts, and among the reſt, a Liſt of the Effects which had been ſeized and ſequeſtered; that the Bailiffs were taken and impriſoned till the 6th of December, and were then brought, under a ſtrong Guard of Sepoys, to Calcutta, and there diſcharged; that by reaſon of ſuch Reſcue, he was not able to ſequeſter or to ſeize, and ſequeſter the ſaid Effects, of which he cannot give a more particular Account than that annexed, owing to the Papers having been taken. The Schedule annexed values the Effects taken at 2,55,900 and odd Rupees.

Affidavit of Findlay ſtates, That he received from Mr. Stark, a Warrant on the Writ of Sequeſtration, directed to him and Shaik Jaffer; that on the 16th November he arrived at Coſſijurah; accompanied by One Sircar, Fifteen Peons, and a Jemmadar; that the ſame Day, attended by them, he went to the Houſe of the Rajah, and entered the outer Gate without Oppoſition; but on attempting to paſs the inner Gate, he was ſtopped by the Moonſhees, and other Perſons belonging to the Rajah, amounting to 500 to the beſt of his Belief, who demanded to know who he was? that he informed them he was an Officer of the Sheriff, and came by Order of the Supreme Court, and by Order of the Chief Juſtice; that he produced his Warrant, and explained the Conſequence of obſtructing or oppoſing him; that the Vakeel ſaid he did not regard the Orders of the Supreme Court, that he would *ſhite* upon the Court's Orders; that the Moonſhee ſaid, the Rajah was not amenable to the Court, and bid Defiance to the Court. That the Deponent offered to fix his Seal; he was prevented and forced away by the Rajah's People, who ſeized and drove him from the Place; that on his again attempting to affix his Seal, one of the Defendant's People held up a Tulwar or Sword, and threatened him; on which he took a Blunderbuſs from one of the Peons, and ſaid he would defend himſelf as long as he could. That he wrote to Mr. Stark, acquainting him of his Situation, and requeſting Aſſiſtance. That ſhortly after, the Dewan came, and told him that the Rajah was not ſubject to the Authority of the Court, and would not obey it; that he would only obey the Orders of Mr. Haſtings, and the reſt of the Council's Orders. That Orders were given to him to quit the Houſe, and on his refuſing, to alarm the Rajah's People. That the Peons who attended him, frequently repreſented the great Difficulties they met with in procuring Proviſions, from the Orders given to the People of the Country, to obſtruct him and his People as much as poſſible; that on the 17th of December he was informed by a Jemmadar, of the Rajah's ſending away Effects, but was unable to prevent it, owing to the Number of People belonging to the Rajah; that on the 25th he was ordered to quit the Place; that he ſaid he would not without Orders from the Court, but if the Court ordered him, he would immediately; that the Dewan ſaid, the Rajah would proſecute the Court for Damages; that on the 22d of November he diſcovered the Rajah had quitted the Place, whereupon he poſted Peons, and affixed Seals on the Houſe and Effects, and finding armed People he ſeized them.—The 24th of November, William Saunders, accompanied by Fourteen Sheriff's Officers, and attended by a few Sepoys and Peons, came and aſſiſted to ſeize the Effects; that being informed the Dewan was the moſt active and vigilant, to prevent Diſturbances he confined the Dewan; that between Ten and Eleven at Night, of the 2d of December, and enquired of him who he was, and why he came; that he ſhewed Mr. Swainſton his Warrant; that Mr. Swainſton aſked what Force he had? that he told Mr. Swainſton he apprehended the Country People would riſe upon him; that Mr. Swainſton had ſome Converſation with the Dewan, the Purport of which he does not know; that after the Converſation he aſked Mr. Swainſton whether he came with Force to aſſiſt the Rajah? that Mr. Swainſton anſwered, he did not; that he was no ways concerned, but was a private Gentleman in his Way to Calcutta: That Mr. Swainſton quitted the Place for that Night, and about Nine the next Morning returned to the Houſe of the Rajah, attended by Two Companies of Sepoys belonging to the United Company, &c. under the Command of Lieutenant Bomford; that he told the Officers he had Orders from the Governor General and Council, to take him and all his People Priſoners; and in caſe of Reſiſtance, to fire on them: That the Sepoys ſurrounded him, his People were ſeverely beat and ill uſed, and the Sircar knocked ſenſeleſs on the Ground; and during the Time he continued ſo, his Papers and Accounts were taken from him by the Rajah's People; that his (the Officer's) Papers and Cloaths were taken from him, and detained till the following Day, during which Time he believes they were inſpected by Mr. Swainſton: That they (the Officers, &c.) were immediately after taken to the Cutcherry at Boglepore; where they were confined Three Days and Three Nights, and were obliged to walk Twelve Miles in the Heat of the Day to the Boats, which carried them to Calcutta, and ſhortly after they were releaſed. The Day of his Confinement he received a Letter from the Sheriff, addreſſed to Saunders, which he opened, and having neither Pen nor Ink, he made Ink from Charcoal, and a Pen with a Bamboo, and wrote an Anſwer: That about One o'Clock of the ſame Day, Saunders, and other Officers, were brought Priſoners; that they were kept apart, and not allowed to diſcourſe together; that none of them were allowed any Proviſions, except what the Rajah ſent them; that on the

28th of November, previous to his own Confinement, he had confined the Dewan: That during the Time of his (the Officer's) Confinement, the ſeveral Goods and Effects ſeized were reſcued by Mr. Swainſton, Lieutenant Bomford, and the others under their Command, or by their Order; and that the Sheriff's Officers were unable to take them again.

The Chief Juſtice obſerved, there was a great deal of criminal Matter opened againſt Perſons againſt whom no Motion had been made; naming the Dewan, Moonſhee, and Vakeel.

Mr. Brix anſwered, Very diligent Enquiry had been made, but that their Names could not be diſcovered.

The Chief Juſtice.—You have ſtated nothing againſt Mr. Naylor.

Mr. Brix. That will appear in the Affidavit of Mr. Lewin and Hyderam Bonagee, which we ſhall read to your Lordſhip.

Chief Juſtice.—Nor any Thing againſt Mr. Haſtings, and Mr. Barwell.

Mr. Brix. That is in the other Affidavit.

The other Affidavits were then read, beginning with Hyderam Bonagee, a Banyan to Mr. Wroughton, who depoſed, That as early as the 12th of October one Parbutty Churn Goſe, the Vakeel of Rajah Soondernarrain, informed him that Coſſinaut had commenced an Action againſt his Maſter, that he would be obliged to him for a Recommendation to Mr. Wroughton; that he accompanied him to Mr. Wroughton, where he executed a particular Warrant of Attorney to this Action, and a General Warrant of Attorney for every Action that might be brought againſt the Rajah in future:—That ſometime after he came to him, and ſaid, Mr. Barwell and Mr. Naylor were very angry with him for what he had done, and deſired the Warrant of Attorney back: That Mr. Naylor had uſed the moſt abuſive Language poſſible, and had told him, if he did not, he would write to the Rajah, and get him turned out of his Employ: That both Mr. Barwell and Mr. Naylor had expreſsly forbid him to put in Bail.

The Chief Juſtice aſked, if the Warrant of Attorney was filed? ſaid, If it was, that it would be material that an Affidavit ſhould be made; that there was great Difference in the Caſe when the Party himſelf was willing to appear, and was not permitted: That this was a Caſe, in which he would give full Time on the one Part to make the Affidavits, and on the other, to anſwer them. He obſerved there was no Charge againſt Bomford; it was not ſtated, he knew that it was Proceſs of the Court; and aſked, if any other of the Affidavits brought it to the Knowledge of Mr. Bomford, that the People there acted under the Proceſs of the Court?

Mr. Brix anſwered, Yes, that Saunders, in the Preſence of Mr. Bomford, declared to Mr. Swainſton, that he acted under the Authority of the Court.

Chief Juſtice.—I wiſh to ſcrutinize this Buſineſs to the Bottom, and to have every Thing ſtated: Is there any Affidavit of the Jemmotdar? If not, all is heavy.

Mr. Brix ſaid, There was not, but one could be procured.

Chief Juſtice.—You may file new Affidavits to the ſame Facts, but you cannot to new ones.

The Clerk then read the Affidavit of Kerter Chunder, one of the Sheriff's Sircars.—States the Circumſtance of his leaving Calcutta, and the Inſtructions he received from the Sheriff, the ſame as Findlay—ſays, he explained the Nature of the Proceſs to an Uncle of the Defendant, who ſaid, That the Governor General and Council had told the Rajah he was not ſubject, that therefore he would not allow the Seal to be affixed; that Proclamation was made by the Rajah's People, forbidding their being furniſhed with any Proviſions. He corroborates the Circumſtances ſtated by Findlay as to the Seizure, Reſcue, &c.—Saunders, another Sheriff's Officer, ſtates, That on the 25th November he received a Warrant from the Sheriff, directed to him and the other Officers, with Inſtructions to go to the Aſſiſtance of Findlay; ſtates, that they were all called before Mr. Stark, who cautioned them againſt committing any Outrage on the Country People; that on the 3d of December he ſaw People armed with Spears, Blunderbuſſes, Firelocks, &c. which induced him to haſten towards Coſſijurah: That afterwards he and his Party were ſeized and carried before Meſſrs. Swainſton and Bomford: That Mr. Swainſton aſked by what Authority he acted? that he ſhewed his Warrant; that he aſked Mr. Swainſton by whoſe Authority he acted? who anſwered, By Order of the Governor; he aſked Lieutenant Bomford the ſame, and was told by Order of Major Ahmuty;—that he was confined Three Nights and Three Days; that Two European Gentlemen (whoſe Names he does not know) came from the Governor to take an Account of the Matter.

The Chief Juſtice aſked, whether Mr. Swainſton was not an Attorney of the Court? and was anſwered in the Affirmative.

Saunders's Affidavit further ſtated ill Uſage in the Boats; that the Sepoys behaved in the moſt inſolent tyrannical Manner; that One of them ſpit in his Face; that they inſiſted upon partaking of their Liquor, &c.

Mr. Lewin's Affidavit ſtated, That on the 25th November, Saunders and the other Officers were diſpatched to Coſſijurah, to aſſiſt in the Execution of the Proceſs; that on the 27th November he believes, but he is poſitive before the 30th November, Mr. Naylor, the Attorney to the Company, came to the Sheriff's Office, and aſked how many People were ſent down? meaning to Coſſijurah; ſaid he had heard Sailors were employed, and enquired their Number.—That Mr. Naylor ſeemed very deſirous of knowing every particular, and he (Mr. Lewin) believes not from Curioſity, but he verily believes Mr. Naylor had private Reaſons, which he did not chuſe to mention — That he believes the Military Force was ſent with his Privity, and that his Enquiries were for the Purpoſe of knowing what Force was neceſſary to reſiſt the Proceſs.

Coſſinaut Baboo ſtates the Circumſtance of the Debt, and that on Non-payment he applied to the Governor General and Council, whom for Two Years he had ſolicited to aſſiſt him in procuring Payment; that finding he could not obtain it, he commenced his Action—That Eight or Ten Days after, he told the Governor, who ſaid you have acted badly, why did you complain to the Court? you will ruin yourſelf and Family—That he anſwered the Governor, he had no Place, and could not afford to loſe the Money. Mr. Haſtings ſaid, why will you bring a Loſs on yourſelf and the Company?—That he aſked how the claiming his Debt could bring a Loſs on the Company—That Mr. Haſtings aſked, if he wanted to make the Zemindars ſubject?—He ſaid he did not, he only wiſhed to have his Claim ſatisfied—that in November, Correem Ullah, a Chubdar of the Governor's, called on him, and deſired him to come immediately to Captain Palmer's; that next Morning he went to Captain Palmer's, who ſaid, Mr. Haſtings and the Council were very angry — That he would be the Cauſe of a great Conteſt between the Council and the Court—That he ought to diſcontinue the Suits—That he anſwered, he did not deſire to occaſion Diſpute, that he had ſolicited Mr. Haſtings for Two Years—That he would be ſatisfied if Mr. Haſtings would undertake to ſettle the Matter—That Captain Palmer told him, Mr. Haſtings would be in Calcutta in Two Days—That on Mr. Haſtings coming to Town to him, that Mr. Haſtings immediately aſked if the Suit was diſcontinued? that on his anſwering it was not, Mr. Haſtings ſaid, it is in your own Inclination to do as you pleaſe—That ſome Time after he went to Mr. Naylor, and aſked if he was Attorney for the Defendant? and on his telling he was not, he communicated to Mr. Naylor what had paſſed between him and Mr. Haſtings—That he deſired Mr. Naylor to ſpeak with Mr. Haſtings—That Mr. Naylor told him he had ſpoke to Mr. Haſtings, who made no Reply, and ſeemed very angry. — Choiten, a Clerk in the Prothonotary's Office, ſwore to the filing the Warrant of Attorney, and Hyderam to his having been preſent, and having atteſted the Execution of it.

Chief Juſtice.—I will not grant an Attachment in the firſt Inſtance.—Let there be a Rule to ſhew Cauſe why Attachments ſhould not iſſue againſt Mr. Swainſton and Lieutenant Bomford, and Mr. Naylor, and to anſwer the Affidavits.—As to the Governor General and Mr. Barwell, we will not include them in the Rule, becauſe we will not grant a Rule we cannot enforce; and we are determined to enforce our Rule to the utmoſt of our Power. Let them be ſerved with Copies of the Rule, that they may anſwer if they pleaſe, and let it be added to the Rule, that the Sheriffs apply to the Governor General and Council, and to each of the Council ſeparately, for Aſſiſtance in executing the Rule, and let the Sheriffs deliver a Copy of the laſt Clauſe in the Charter by which His Majeſty requires them to give ſuch Aid.

It will be exceedingly proper that the Governor and Mr. Barwell ſhould have Notice of the Rule; it is totally impoſſible the Buſineſs can ſtop in this Country.

Mr. Brix.—I ſhall endeavour to find the Names of the Dewan, &c. To-morrow, and ſhall move your Lordſhips againſt them.

Chief Juſtice.—You will do right, and the Court will be obliged to you to move againſt the Dewan, &c.

22d January, Circulation.

The Secretary having received the following Minutes from the General Department enters them accordingly.

Minutes of Council taken in Circulation, 21ſt January 1780.

A Letter and Three Encloſures from the Sheriff, addreſſed to this Board.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council.

Honourable Sir, and Sirs,

In obedience to the Orders, of which I had the Honour to ſerve you with a Copy, and under the Authority of the Clauſe in His Majeſty's moſt gracious Charter, a Copy of which I have likewiſe the Honour of leaving with you, I do require you to be aiding and aſſiſting in the Service of the ſaid Rules of the Honourable the Supreme Court of Judicature at Fort William in Bengal. My Officer, William Findlay, will be diſpatched this Evening at Seven o'Clock from the Sheriff's Office, to ſerve the ſaid Rule on William Swainſton and Stephen Bomford, and William Savory, at the ſame Time to ſerve the other Rule on North Naylor, an Attorney of the Court.

I have the Honour to be, &c.

Calcutta,
19th January 1780.

(Signed) — Alex. Van Rixtel,
Sheriff.

COSSIJURAH APPENDIX, N° 20.

Advocate General's Report.

THE Two Letters now before me, with their ſeveral Encloſures, contain Matter of Reference upon Two Heads.

The Firſt, not involving any Queſtion of Law, is not, in Strictneſs, referable to me; but, becauſe I would not be thought to decline any Part of the Difficulty of this Caſe, or to ſlacken in the Aſſiſtance for which Government has every Claim upon me, I will preſume to ſay, what Courſe I ſhould ſuggeſt, had I the Honour of a Voice at the Board.

It does not appear to me, that there is any thing directly addreſſed by the Judicature to the Board, which requires an Anſwer.—An Addreſs to the former, from Government, would therefore probably find the Fate of former Communications; it would be tranſpoſed to a Petition, and in that Form would probably undergo, public and ſevere, becauſe unanſwered, Animadverſion; and to enter into any Diſcuſſion or Correſpondence with the Sheriff, who only acts miniſterially, were beneath the Dignity of Government, and would only tend to entangle a Matter ſtill more, which already teems with Difficulties.

I am, for theſe Reaſons, of Opinion, that nothing, either verbal or written, ſhall, on the Part of this Government, be addreſſed to the Judicature, or to the Officer acting under its Authority.

The Statute and the Charter of Juſtice purſuing its Proviſions, exempt the Governor General, and the Members of the Supreme Council, from Arreſt, in any Action, Suit, or Proceeding; and from Trial, upon any Indictment to be preferred for any Offence ſhort of Felony or Treaſon; they are, nevertheleſs, clearly and incontrovertibly amenable to the Juſtice of the Court, in any Civil Proceeding, of which they may be individually the Objects.

Their perſonal Exemption from Civil, and with certain Exceptions, from Criminal Proceſs, appears to have been given on account of a ſuppoſed Sufficiency of Means to anſwer every Demand, propter dignitatem; but the Charter, by marking a Mode in which they may be compelled to appear, ſubjects them beyond Controverſy to the Juriſdiction of the Court. — That Subjection, however, I apprehend to be, in Law and in common Senſe, reſtrained to their Acts in their private Capacity.—Engaged, like others, in the common Commerce of the World, prompted by human Paſſions, and governed by human Intereſts, they muſt, upon the Conduct and Dealings of private Life, take the ſame Meaſure of Juſtice, and from the ſame Source with the other Members of the Community; but their public and joint Acts, in the Exerciſe of the Powers veſted in them by Parliament, I cannot perſuade myſelf are examinable elſewhere; a Doctrine to which, in my Mind, every Reaſoning applies, on which it has been determined, that for judicial Acts, a Judge is not queſtionable, other than by the Supreme Authority of the State.—In a Conſtitution, from a Variety of Cauſes, ſo defective as that, under which this Country is now governed, and public Juſtice adminiſtered, the poſitive Proviſions of which, in ſo many Inſtances, alſo fail, or fall ſhort of their End; Inference and conſtructive Intention, are often the only Guides; and where they ſhall ſometimes happen to differ in Two great Bodies, nearly Co-ordinate, the Want, in the Narrowneſs of the Syſtem, of a preſent Power, competent to decide, leaves no Remedy, but in an Appeal to that Power from which either Department derives its Authority.—That it could not have been intended, when the preſent Syſtem of Government was planned for theſe Provinces, that the Members of Adminiſtration ſhould be individually anſwerable in their private Fortunes, for the Acts of Government, I judge for the following Reaſons.

Becauſe, in the Place of that Proviſion of the former Charter, which, in all Cauſes where the Company were Defendants, required Notice to be ſerved upon the Preſident, it is ordered by the preſent, that an Attorney ſhall be appointed, who ſhall be of Record, and upon whom ſuch Notice ſhall be ſerved.—This Government being, by the late Act, required to be, in all Caſes, obedient to the Orders of the Company, and that not exerciſing Authority over Perſons, or Dominion over its Property in any Way, but through the Medium, or by the Agency of the Governor General and Council; their Acts are, therefore, in inevitable Conſtruction, the Acts of the Company; and the Appointment of an Attorney, provided for by the Charter, muſt be intended to have been for the Purpoſe of appearing to and defending ſuch Suits as ſhould be grounded upon thoſe Acts; for the Appointment were otherwiſe nugatory, and the Office uſeleſs.

Becauſe it appears to have been the Intention of the Legiſlature to keep the Powers of Government and thoſe of the Judicature, as wide and independent of each other as poſſible; but were it once eſtabliſhed, that each Member of Government aſſented to any public Meaſure, by which an Individual might be affected, at the Hazard of his Fortune, the laſt Shilling of which might be given in Damages, to be aſſeſſed in the Diſcretion of the Judges, this Government would at that Inſtant become inefficient and contemptible, and that reſpect which follows Power would be at once transferred to, and center in, the Judicature.—Becauſe, to commit to a Court of ſuch novel and ſingular Conſtitution, the Power of examining and puniſhing, in the Perſons of its Members, each Meaſure of Government, and thus, upon an Action brought, perhaps by ſome obſcure and deſperate Litigant, againſt the firſt Member of Adminiſtration, to expoſe its moſt ſecret Deliberations, and hazard all the poſſible Conſequences of ſuch Diſcloſure, were a Proviſion, ſo wanting in common Policy, ſo pregnant with Danger, and ſo unwarranted by any thing analogous at Home, where nothing ſimilar thereto exiſts, or has ever exiſted, that I cannot think it ſhould, in theſe Times, be allowed upon ſo ſlender a Foundation as looſe and general Words.

And finally; Becauſe, though a Ground of Action were admitted, and the Party were clearly entitled to a Satisfaction in Damages for the Injury complained of, he cannot be ſaid to be without Remedy, inaſmuch as the Ends of Juſtice may be as effectually anſwered in another Way; as by bringing ſeparate Suits againſt the Members of Government in the Supreme Court, the Competency of which to entertain them, being more than doubtful, the Motive for bringing them being evidently miſchievous, and the Miſchief ſerious and certain, it will, for the ſeveral Reaſons I have ſtated, reſt with the Wiſdom of Government to acquieſce or not in ſuch Mode of Proceeding, if upon the preſent, or any future Occaſion, it ſhall be adopted.

(Signed)

Calcutta,
23d February 1780.

John Day,
Advocate General.

Agreed, That the above Opinion of the Advocate General be referred to in our next General Letter to the Honourable the Court of Directors.

COSSIJURAH APPENDIX, Nº 21.

To the Honourable Warren Haſtings, Eſquire, Governor General, &c. Council of Revenue, Fort William.

Honourable Sir, and Sirs,

I Think it my Duty to ſubmit to your Honourable Board, a Minute of the Proceedings had in the Supreme Court, upon the Rule made on the 18th Ultimo, by which I am ordered to anſwer certain Affidavits, alledging Matters of Contempt againſt me.

The Determination of the Court has been poſtponed to the Firſt Day of the next Term, though every Means have been employed on my Part to accelerate a Deciſion, the ultimate Object of which I cannot ſuppoſe to be a Sacrifice ſo inconſiderable as myſelf, but rather a deliberate and concerted Meaſure to degrade the Dignity of Government, by the Puniſhment of your public Officer, and to impreſs the Minds of the Natives with an Idea of Criminality in your Proceedings, under the Authority of which he has acted; theſe are the only Conſequences which give me any Concern for the Event, and will call forth every Exertion on my Part, to bring this Meaſure to ſuch Iſſue, as may moſt conduce to the Honour of your Adminiſtration.

A Charge received and attended to by thoſe ſo dignified and reſpectable as compoſe a Court of Judicature, attracts Notice, and commands Attention; with ſome, the Object of its Proceedings may find Cenſure, till his Conduct and its Motives ſhall be explained; with you, Honourable Sir, and Sirs, I truſt I need no Vindication; but for the Approbation of the Honourable Company (to me the moſt flattering Reward of my Services) I muſt be beholden to your faithful Repreſentation; and, well aſſured that I ſhall receive that Juſtice at your Hands, I ſhall beg Leave to ſubmit to your Judgment ſuch Obſervations, as in the Progreſs of theſe Proceedings appear to me to merit your Attention.

The Inſufficiency of the Facts which are alledged in the Affidavits to ſupport the Charge, or to conſtitute any Crime, the very weak and incompetent Evidence even of thoſe Facts, and the Precipitancy of the original Proceeding (an abſolute Rule being made without Notice, or Intimation to me) all, I preſume, ſtrongly indicate a ready Diſpoſition in the Judicature to countenance and promote the Proſecution. My Situation, as Attorney to the Honourable Company, was known to the Judges, in their public Capacity (it being of Record, and ſo ſtated in one of the Affidavits); nor could they be ignorant, that the Facts imputed to me, if true, muſt have been done in the Courſe of my Profeſſional Duty, and as is even ſhewn by the Affidavits themſelves, in confidential Communication with the Agent of my Client. It could not be ſuppoſed, that I had acted from my own mere Will, but as your Attorney, with whom Obedience became an indiſpenſable Duty, and in whom you had depoſited your Secrets and Inſtructions with Confidence of Safety. On theſe Grounds, and ſeeing me placed in ſuch Predicament, I ſhould have been led to expect, that the Court would have diſcountenanced the Proceeding, as unworthy and ungenerous, if conſidered as perſonal towards me; and as highly improper, and deſerving of Cenſure, if as to the Officer of this Government.—I was the more induced to the Perſuaſion, from a Knowledge of this Diſpoſition of the Court in other Inſtances, where Attornies have been called on to diſcloſe the Communications of their Conſtituents, when the Court have juſtly reprobated the Attempt; ſuch, therefore, I truſted would have been the Fate of this. Rigorous Severity is not become eſſential to the ſtricteſt Diſpenſation of the Laws, neither has Candour hitherto ceaſed to diſtinguiſh the Proceedings of a Britiſh Judicature, or become incompatible with the Adminiſtration of its Powers. If there exiſts a Caſe, in which the Proceeding of a Court of Juſtice ſhould be peculiarly temperate and forbearing, it is in that of Attachment for a ſuppoſed Contempt of its Authority, as, by one of thoſe Defects which are common to all human Inſtitutions, in that Proceſs, the Meaſure of Puniſhment remains in thoſe Hands, from which a Diſpenſation of it, wholly diſpaſſionate, can hardly be expected.

Upon the vague and uncertain Proofs contained in the Affidavits, I ſhould not have founded my only Hope of Diſcountenance to ſuch Proceeding; the malicious Deſire which they ſpeak in the Deponents to implicate me officially in the ſuppoſed Offence, ſuggeſted another, a Circumſtance which of itſelf ſtrongly indicated in thoſe with whom theſe Meaſures have originated, either a Diſpoſition hoſtile to me, or what is ſtill more probable, an anxious Deſire to expoſe an imagined Inability in Government to protect its Agents in the Execution of its Meaſures. As the Affidavit of William Lewin authorizes theſe Concluſions, I beg leave to call the Attention of the Honourable Board in particular to its Contents. Unable to diſcover a Circumſtance ſuſtained by real Facts, to aſſiſt and give Colour to the Charge, he has found in Suſpicions and Conjectures, and a manageable Conſcience, well ſuited to the Wiſhes of his Employers, the Means of giving a conſtructive Criminality to an Act in itſelf innocent and inoffenſive; ſuch, I affirm, was the Enquiry made by me at the Sheriff's Office. Thoſe Conjectures of Mr. Lewin muſt appear from the Nature of the Caſe to have been long poſterior to the Fact which is ſworn to have ſuggeſted them; for no Reſolution had at that Time paſſed your Board, nor had you been furniſhed with Information of a Military Force being ſent by the Sheriff to Coſſijurah; yet theſe Suſpicions and Conjectures, unſupported by any collateral Fact which can in any Degree affect me, are accepted by the Court, and have, to all Appearance, in their Judgment already condemned me as a Party to the Reſiſtance of their Proceſs. The Affidavit of Hyderam does not appear to have been more deſerving of Attention; he ſpeaks only on Hearſay, from a Third Perſon. It is deplorable to conſider the dangerous Tendency of encouraging hearſay Accuſation; its Firſt Fruit is, that the moſt innocent are at the Mercy of the wicked and the weak; and there being no Puniſhment to check the Practice, or prevent the Miſchief, the Conſequences are therefore imputable to thoſe who ſuffer Guilt to be eſtabliſhed upon ſuch Evidence. He who affirms, as ſuch only, what he has been told, commits no legal Crime, and ſubjects himſelf to no Penalty; the original Calumniator is liable to no Puniſhment; his Narration was not bound to Truth, nor ſanctified with the Religion of an Oath. Admitting the Fact, then, in the former Affidavit, to be true, neither in Law nor in common Senſe does it in my Mind amount to a Contempt of the Supreme Court; it was my Duty, and nowiſe criminal, to communicate to the Governor and Council Intelligence ſo important, as that a Body of Men had been marched to the interior Part of the Province. Whatever were the Meaſures of Government conſequent thereto, and whatever Colour or Conſtruction the Judges may give to thoſe Acts, no Share of the Criminality (if any there is) can be imputed to me, unleſs it ſhall appear that I joined in adviſing or enforcing thoſe Acts. The Uſe which was made of the Intelligence, furniſhes no Argument againſt the Propriety of having given it, or that would have juſtified me to my Superiors, in having withheld it from them. From the Matter charged in the other Affidavit (though it were admitted for Argument that hearſay Evidence is of Proof) I conceive myſelf to ſtand equally exculpated: there are ſurely Occaſions in which an Attorney might be juſtified in adviſing his Client, either to avoid the Proceſs of the Court, or not to appear to it; nor beyond theſe doth the Charge in its moſt unfavourable Conſtruction extend;—in this Country ſuch Advice may more peculiarly become the Duty of an Attorney, the more eſpecially as the Inſtitution being new, and of a Nature not analogous to any of the Courts of Judicature at Home, its Powers are not aſcertained by Precedent or Practice.

That the Rajah of Coſſijurah is to be conſidered as my Client, I think cannot be conteſted; having roſorted to the Governor General and Council, as the Government of this Country, for a Protection he conceived himſelf entitled to; he applied himſelf to me, as their Officer in the Department to which his Buſineſs had Relation, that he might receive my Aſſiſtance and Advice to direct his Meaſures, in Conformity to their Reſolutions; a Reaſon for which he can urge a double Claim, official as well as profeſſional, to my Secreſy and Fidelity.

In a Procedure ſo ill-founded, and ſo conducted as the preſent, I ſhould be almoſt induced to ſuppoſe that the Purpoſe to be anſwered was by bringing a colourable Charge againſt your Attorney to force him to a full Diſcloſure of your Counſels; for being once in Cuſtody upon an Attachment, my Impriſonment will not have an End till the ſtricteſt Scrutiny, by interrogatory, ſhall have accompliſhed that Purpoſe; but that Intention, and ſuch Means of reaching it, however Appearances may warrant the Concluſion, I ſhall moſt unwillingly attribute to the Judicature, becauſe it cannot be planned without Paſſion, or executed without Injuſtice; it partakes, beſides, too ſtrongly of that Exerciſe of inquiſitorial Powers, which has been long baniſhed from our Courts, and though the dread of Innovation has ſtill left this Mark of Deſpotiſm upon our Law, the beſt and wiſeſt Judges of later Times have exerciſed it with Lenity and Caution.

From the firmeſt Conviction, that a Diſcloſure of Matters officially confided to me, if expected or ſought for, is not only incompatible with the Ties of Honour and Duty, which bind me to my Employers, but likewiſe inconſiſtent with our Laws, I ſhall ſtrictly perſevere in my Purpoſe of refuſing to make ſuch Anſwers to any Interrogatories that may have that Effect; nor (my Conduct being ſanctioned by the Approbation of your Honourable Board) ſhall any Means be ſucceſsfully employed to divert me from my Purpoſe.—The Intimation which the Chief Juſtice has given in open Court, that Coſſinaut has his Remedy againſt the Members of Government, for the Recovery of his Debt, furniſhes alone, I preſume, a ſufficient Argument to juſtify my Silence, and creates an additional Obligation to obſerve it, whatever may reſult from the Refuſal.

The dangerous Conſequences which threaten the Intereſts of the Company, and the daily Hazard and Embarraſſment that muſt fall upon Government, ſhould their Law Officers no longer be conſidered as the faithful and inviolable Repoſitories of their Secrets, are too obvious not to be ſeen, and too alarming not to be dreaded; whenever ſuch a Right is admitted, all Communication between Government and its Law Officers muſt ceaſe, and from the Want of ſuch Communication, they will be left with no Alternative but to abandon the Defence of their Suits, and patiently await the Conſequences, which muſt be ultimately the Ruin of their Affairs.—That they who are ignorant of the Importance of the Company's Law Engagements, may not conſider theſe Apprehenſions

henſions as chimerical, I need only add, that there are at this Time Claims againſt the Company to the Amount of Fifty or Sixty Lacks of Rupees, and that I underſtand that Two Bills in Equity are now preparing, to try the Queſtion on which the Recovery of them depends.

I am at a Loſs to conjecture why the Court, violating, in this Inſtance, that Regularity and Order which, at Times, it ſo ſtrenuouſly contends for, has poſtponed the ſhewing Cauſe upon the Rule till the next Term. Does it not furniſh ſufficient Grounds for a Belief, that the Delay is a ſtudied one, and not meant in Mercy to the Accuſed?—The Minutes that accompany this, will ſhew, that the Enlargement was ſuggeſted by the Bench; and though the Conſent of the oppoſite Advocate had been obtained, for my entering upon my Defence on the Day originally appointed, it was ſtill not permitted by the Court.

The unfavourable Diſpoſition of the Judicature, which has diſcovered itſelf in the early Stage of theſe Proceedings, furniſhes Apprehenſions to my Mind, that their Iſſue will be marked with Severity; and even ſuggeſts a Fear, that the Diſpleaſure of the Court may extend to diſqualifying me to act or appear for the Company, by ſtriking my Name from the Roll of Attornies; a Puniſhment which will affect me no leſs in my Peace, than in my Fortunes, as my higheſt Gratification, ſince I firſt entered upon public Life, has been the active and aſſiduous Exertion of my humble Abilities, for the Honour and Intereſt of this Government.

I am, &c.

Calcutta, (Signed)
the 22d February, 1780. N. Naylor.

Minutes of the Proceedings of the Supreme Court, on the Rule made on the 18th Day of January, 1780, on Mr. North Naylor, Attorney on Record to the Eaſt India Company, ordering him to anſwer to ſeveral Affidavits, alledging Matters of Contempt committed by him, of the Supreme Court.

On Thurſday the 27th January a Motion was made, on Behalf of Mr. Naylor, to enlarge the Rule made on the 18th Day of that Inſtant January, till Monday the 31ſt Day of January. The Motion was granted, on Conſent of the Advocate of the oppoſite Party; but by the Inaccuracy of the Clerk of the Crown, the Enlargement was minuted till Wedneſday the 2d Day of February, inſtead of the preceding Monday, agreeable to the Motion.

January 31ſt, 1780.

The Chief Juſtice, } Preſent.
Mr. Juſtice Hyde, }

Mr. Lawrence being aſked, Whether he had any Motion to make? replied, He had, to ſhew Cauſe for Mr. Naylor, againſt the Rule made on him, the 18th Day of January; but that he ſhould wait till the Court was full, as it was a particular Matter.

Chief Juſtice.—I don't know why you ſhould wait till the Court is full; there is nothing particular in the Motion, that I know of—it is for an Attachment; is it not?—You will uſe your Diſcretion, when you chuſe to ſhew Cauſe; I expected, that as the Situation of Mr. Naylor's Family is the ſame, that you would have moved to enlarge the Rule.

Mr. Lawrence.—Mrs. Naylor is better; Mr. Naylor wiſhes to have the Matter determined.

The Rule of the 18th Inſtant was then read; and the Clerk was reading one of the Affidavits, when the Chief Juſtice interrupted him, and aſked where the enlarged Rule was, and why it had not been read?

Mr. Lawrence.—The enlarged Rule has never been made out by the Clerk of the Crown.

Chief Juſtice.—Then you muſt get your Rule, you cannot go on without it.

Mr. Tolfrey, who acted as Attorney for Mr. Naylor, applied to the Clerk of the Crown, who ſent for his Minute Book.—The Officer ſeemed doubtful as to the Time for which the Rule was made, but ſaid, he remembered the Rule of Swainſton and Naylor were on different Days; but after ſome Altercation, the Clerk of the Crown, having received his Minute Book, informed the Court, that by his Minute, the Rule was for Wedneſday; the Chief Juſtice ſaid, he knew it, and that was the Reaſon he had aſked for the Rule; that he was ſure the Court would never have named Two Days for the ſame Buſineſs.—Mr. Brix having, on the Application of Mr. Lawrence, conſented to the Cauſe being then ſhewn, and every ſuppoſed Objection removed, Mr. Lawrence moved it on Conſent; but the Chief Juſtice ſaid, "The Court will be particularly careful in a Matter of this Kind to be regular;

the Parties chuſe to be irregular, the Court will not; we will not depart a Step from the regular Practice.

There was much Altercation as to the Day for which the Rule had been made. Mr. Lawrence, who had the Motion, and Mr. Tolfrey, who had given Inſtructions, aſſerted they were poſitive that Monday, and not Wedneſday, had been fixed on. This was alſo confirmed by other Gentlemen in Court, but the Chief Juſtice ſaid, he ſhould be guided by the Rule, that if the Officer was wrong we might move againſt the Officer.

Mr. Tolfrey then procured the Rule, got it ſealed, and Mr. Lawrence moved to diſcharge his own Rule, conceiving that the Rule for the Enlargement being diſcharged, he would be admitted to ſhew Cauſe, arguing how diſagreeable it would be to Mr. Naylor (in caſe the Court ſhould order an Attachment) to be confined during the whole Vacation, which he muſt unavoidably be, as the Attachment would be moved for on the laſt Day of the Term, if the Buſineſs was poſtponed till Wedneſday.

Mr. Lawrence.—I hope your Lordſhip does not mean that Mr. Naylor ſhall anſwer in Vinculis.

Chief Juſtice.—Why not? Mr. Naylor will have more Time to think of his Conduct, and prepare his Anſwers.

Mr. Lawrence.—It is a bad Place for Contemplation.

Chief Juſtice.—It is your own Fault; you might have enlarged the Rule till next Term, had you choſe it; the Court were deſirous of proceeding with Lenity, but you wiſh us to be ſevere. I can very well ſee the Drift of the Motion; it is obvious enough. The Court have ordered the Motion to ſtand for Wedneſday next, and it ſhall be heard on Wedneſday. There are but Two Caſes in which an Attachment can be moved for in the laſt Day of the Term; in the Caſe of a Sheriff, and for Coſts.

Mr. Thompſon.—As this is neither of theſe Caſes, it ſeems to induce the Neceſſity of fixing the Day ſo long before the End of the Term, as to be able to move for the Attachment before the laſt Day.

Chief Juſtice.—I don't know that an Attachment need be moved for, it would go of courſe; however, you may take Advantage of that on Wedneſday.

February 1ſt.

This being the Day to which the Rule againſt Mr. Swainſton was enlarged, Mr. Lawrence roſe to ſhew Cauſe. The Chief Juſtice aſked, Whether any Cauſe was ſhewn by Lieutenant Bomford? and being told there was none; he ſaid, That the Court would hear the Whole together; and aſked Mr. Stark, the Deputy Sheriff, Whether the Rule on Lieutenant Bomford had been ſerved? Mr. Stark anſwered, There had not been Time; the Chief Juſtice ſaid, Why don't you inſtruct Counſel to move to enlarge your Rule—Mr. Stark then began preparing an Affidavit. Mr. Lawrence ſaid, That Mr. Swainſton was totally diſconnected from Lieutenant Bomford; that he had come from Midnapore on purpoſe to anſwer the Affidavit; that the Rule was ſeparate; that Lieutenant Bomford might never anſwer thie Rule; and it was very hard, that for that Reaſon it was to be hung up as to Mr. Swainſton. —Mr. Brix made the Motion for the Enlargement of the Rule as to Bomford till the 1ſt Day of next Term, on the Ground of an Affidavit, ſtating, there had not been Time to ſerve the Rule; which Enlargement was granted.

Mr. Brix then moved, That the Rules againſt Mr. Swainſton and Mr. Naylor might alſo be enlarged till the ſame Time.

Mr. Lawrence deſired Time to ſhew Cauſe that he had againſt this Motion, as affecting Mr. Naylor, alledging that he had no Notice of this Motion; that as the Court had fixed particular Days for hearing Cauſe againſt the Rules, he conceived he had a Right to ſhew Cauſe on thoſe Days.

Mr. Thompſon then ſhewed a Caſe in point.

Mr. Lawrence continued, that Mr. Naylor's Rule was intirely diſtinct from Lieutenant Bomford, that it was of a different Nature; that Mr. Naylor had been noways concerned with Lieutenant Bomford in any of the Acts charged by the Affidavits; that it was very diſagreeable to him to have the Rule hanging over him all the Vacation.

Chief Juſtice.—The Court, for their own Convenience, choſe to hear the Whole together; the ſame Perſons who defended for Mr. Naylor, might alſo defend for Lieutenant Bomford, if they choſe.

Mr. Lawrence ſaid, that did not extend to Mr. Swainſton,—he defended for himſelf.

Chief Juſtice.—I do not know that; it may be ſo, Mr. Lawrence, Mr. Swainſton's Affidavit is a full Denial of the whole Matters, charged againſt him; he did not think an Attachment could go againſt him.

In the Supreme Court of Judicature,
at Fort William, in Bengal.

2d Term, 1780. 8 March.

PRESENT,

Sir Elijah Impey, Chief Juſtice.
Sir Robert Chambers, } Juſtices.
Mr. Hyde, }

Rex V. North Naylor.

The original Rule, and the Rules for its Enlargement, together with the Affidavits on which the original Rule was grounded, having been read, Mr. Lawrence roſe to ſhew Cauſe on the Behalf of Mr. North Naylor. He ſaid, it was a cruel and unexampled Attack on Mr. Naylor, that he ſhould beg to conſider the Matter in the moſt extended Point of View, and advert to every Circumſtance that tended to throw off the Imputation of Culpability with which it was attempted to charge Mr. Naylor: It would be neceſſary, he ſaid, to conſider where we were, by what Authority the Court ſat, and what was the Nature and Extent of the Powers veſted in the Governor General and Council; the Relation and Light in which Mr. Naylor ſtood to this Court, and to thoſe Perſons whoſe Officer he was. He ſaid, the Hiſtory of the Cauſe had been fully told in the Affidavits; an Action had been brought againſt a Zemindar; a Capias had iſſued, and was returned unexecuted; a Sequeſtration had gone thereon, the Sheriff had ſent down his Officers, who attempted, but were not able effectually to execute it; the Officers write to the Sheriff an Account of their Situation, and the Under-Sheriff in conſequence prepares an armed Force.—He ſubmitted, that in a Caſe of this Nature, where the Proceſs had been reſiſted, it was the Duty of the Sheriff to have applied to the Governor General and Council for Aſſiſtance, under the Authority of the Charter, That the Governor General and Council under the Act, were entruſted with the ordering, managing, and governing the Territorial Acquiſitions, ſo long, &c. (quoting the Words of the Act) with the Adminiſtration of Juſtice both Civil and Criminal, in the Provinces at large; and that they had the whole Command of the Army. That when ſuch a Rabble as deſcribed in the Affidavits, were ſent into a diſtant Part of the Country, and who, it was probable, might diſturb the Peace of the Country; it was, he contended, the Duty of the Governor General and Council to interfere and check ſuch Proceedings: That he was ſurpriſed the Sheriff ſhould tell ſuch a Story of himſelf, that he had picked up a Mob of the loweſt People, had put them under the Command of his Officer Findlay; that this Body of diſorderly People were accompanied by Sepoys, or in other Words, diſbanded Soldiers, without being under the Controul of any Military Officer.—He ſaid, for Argument's Sake, he would ſuppoſe the Proceſs to have been regularly iſſued, though he meant to diſpute that Point, yet the Sheriff ought to have applied to the proper Authority for Aſſiſtance.—Suppoſe the Facts uncontroverted; ſuppoſe them to be as ſtated in the Affidavits, what are the Governor General and Council to do? Are they to ſuppoſe that Perſons who have poſitively no Right to be in this Country, are there by Authority? When they hear of unlicenſed Europeans wandering through the Country under no Controul, it was the Duty of the Governor General and Council to prevent that Miſchief, which all ſenſible and good Men muſt have apprehended would enſue. It appeared, he ſaid, that when theſe People came to Coſſijurah, they attempted to execute the Proceſs by going to the Rajah's Houſe. It was well known to the Judges, and to every Man at all converſant with the Cuſtoms of Hindoſtan, what was the Nature of the Houſes of Hindoos, the Sanctity of the Apartments of Women. Would the Sheriff in Prudence, in Humanity, ſuffer Wretches, the vileſt in Town, to intrude on the Receſſes of the Zenana? Were the Wives, the Siſters, the Daughters of Men ſo reſpectable to be polluted? Were their Jewels to be ſtripped from their Arms and Legs, by the bare "Hands of filthy, dungeon Villains?" The Sheriff would certainly have been called to a ſevere Account for ſuch Conduct. Mr. Lawrence ſaid, there was nothing which affected Mr. Naylor, except in the Affidavits of Hyderam and Lewin, which ſtated ſome Facts, which they ſeemed to inſinuate were Steps previous and leading to the Steps taken to oppoſe the Proceſs of the Court. Mr. Lewin ſeemed very inclined to ſwear hard. He ſpoke not only to Facts, but to his own extravagant Conjectures: He ſwears to his Gueſſes of Mr. Naylor's Intentions—Ille impiger hauſit Spumantem Pateram.

Chief Juſtice.—If you obſerve on Affidavits, ſtate them as they are, more eſpecially when the Obſervation affects the Credit of the Perſon making the Affidavit; Mr. Lewin ſays, he believes ſuch were Mr. Naylor's Intentions.

COSSIJURAH APPENDIX, Nº 21.

[illegible] submitted to such Learning [illegible] Observation [illegible] on the Affidavit, that it shewed a ready Disposition to swear hard. That he should now observe that there was a great deal of Difference between the advising a Man subject to the Jurisdiction of the Courts in England not to appear, and the giving the like Advice in this Country; that the Legislature hath, while the Territorial Acquisitions of this Country should remain in the Company, established a Court—

Mr. Hyde.—I must stop you when you cite the Act in that Way; the Court is established with no Reference to Time whatever.

Mr. Lawrence proceed to observe, that the Legislature had vested the Government of the Territorial Acquisitions, &c. in the Council, that the Act had not said how these Provinces came to the Possession of the Company, that the Government were vested with very high Authority, that the Court had a limited and uncommon Jurisdiction, that it was a new Situation, the Powers of the Court were not ascertained, that it was the first Instance of any Prince or State exacting Obedience to his Laws from Persons who were not declared to be Subjects of that Prince or State.—For wise and just Reasons actuating the Legislature in this Case, the Law has thought proper to speak thus ambiguously, to say, that Persons under certain Descriptions residing within certain local Limits, shall be amenable to the Court.

Chief Justice.—Do you mean to argue from the Act without the Charter, or to admit the Authority of the King to grant a Charter?—Mr. Lawrence said he meant to argue from both.

Chief Justice.—Then you will find our Jurisdiction is more than over Persons. Let us understand each other: We have Two Jurisdictions, one personal and the other local.—Mr. Lawrence said, He would grant, that if a Man living in this Town, and served with the Process of this Court, should apply to an Attorney, who should advise him not to regard its Process, such Attorney would be guilty of a Contempt; but if a Person clearly no Object of this Court's Jurisdiction, living out of the local Limits of it, should make such Application, and receive such Advice, Mr. Lawrence contended that in case it was not so clear, that if the Adviser should say, Do not take Notice of the Process, you are not obliged to do it, you are no British Subject, the Act of Parliament has not put you under the Authority of the Supreme Court; it was not so clear that such a Person was guilty of a Contempt, because by the very Act of appearing, the Defendant, if not previously an Object of the Court's Jurisdiction, put himself in a Situation which the Law had not put him in, and disrobed himself of Rights with which he would be otherwise cloathed; that the original Process in this Cause was a Capias, and that granted on an Affidavit which did not charge that the Defendant was an Object of the Court's Jurisdiction; that Mr. Naylor swore to a Matter which acted upon his Mind, and upon a Principle of Reason which, Mr. Lawrence contended, was founded in Law; that upon issuing the Capias the Defendant must either put in Bail or go to Prison; that if he put in Bail he must join with the Bail in the Bond, and consent that it might be sued in this Court, and if he could not obtain responsible Bail above, the Plaintiff would desert the original Action, and proceed on the Bail Bond, by which means a Person clearly not an Object of the Jurisdiction of the Supreme Court, might be forced into a Submission to that Jurisdiction, to which the Act of the Thirteenth of the present King had not made him amenable; that it would be hard if under Circumstances of this Nature, Mr. Naylor, who must be supposed to have acted with upright Intentions to the best of his Judgment, should be subject to an Attachment for a Conduct, if in itself perfectly innocent. Upon these Grounds he prayed the Court to discharge the Rule with Costs, as against Mr. Naylor.—Mr. Lawrence further added, that he was ready to argue, with the Permission of the Court, that the Affidavit upon which the learned Judge had issued the Capias against Rajah Soondernarrain, was not such as would warrant the issuing the Capias; for Cossinaut, the Plaintiff, did not swear he believed the Defendant to be an Object of the Court's Jurisdiction; that he (Mr. Lawrence) was persuaded that Cossinaut would not have ventured to have sworn it; for that to him it appeared, and he hoped the Court would think, that a contrary Conclusion would be drawn from the Premises as stated in the Affidavit.

Chief Justice told Mr. Lawrence, that on exercising his Judgment, he would find that the Affidavit in the Cause would be of no Use; that an Irregularity in the Affidavit was not the Way by which an Attorney could get rid of an Attachment; that if the Affidavit was irregular, upon Motion the Defendant would be admitted to file common Bail, and be discharged; that the Court alone were the Judges of the Regularity of their own Proceedings; that it was not in the Breast of the Attornies of the Court, they must make their Objections to the Court; the Acts of the Court can only be submitted to themselves. The Moment that our Jurisdiction is in the Hands of another, any Man, though as white as Snow, though a British Subject, the Governor General himself, may come into Court, and claim the same Right; may say, I am not an Object of your Jurisdiction; I will hold you to that; you shan't issue Process; it cannot serve you. I dare say you and Mr. Naylor knew you could not use the Affidavit by not [illegible] your Attorney.—Mr. Naylor's Affidavit was then read.

Mr. Thompson said, I am likewise Counsel for Mr. Naylor, in whose Behalf I shall trespass but upon little of your Lordship's Time; much I hope will not be necessary to shew that he has complied with the Rule which has been made against him, in such a Manner as [illegible] charge of it, with Coſts.

Though the Affidavits filed in this Buſineſs are numerous, there are only Three which affect, or ſeem intended to affect Mr. Naylor.—I mean the Two ſeveral Affidavits of Hyderam Bonnagee and William Lewin, and the joint Affidavit of Hyderam Bonnagee and Chayten Byſack.

The Charges contained in theſe Affidavits againſt Mr. Naylor, are only Two, both of a Complexion very innocent, and neither of them well ſupported.

The firſt Charge is contained in the Affidavit of Hyderam Bonnagee, Banyan to Mr. Wroughton, and is reduceable to this:—"That Purbutty Churn Ghoſe, the Vakeel or Agent of Rajah Soondernarrain, ſigned Two Warrants of Attorney to Mr. Wroughton, the one authorizing him to appear on Behalf of the Rajah to the Action which had been brought againſt him by Coſſinaut Baboo; the other a *general* Warrant of Attorney, authorizing him to appear and defend *all Actions* that might be brought in the Supreme Court againſt the ſaid Rajah Soondernarrain by *any other Perſon whatſoever.*—That notwithſtanding theſe Acts, Purbutty Churn Ghoſe, under ſome trifling Pretences, for many Days delayed putting in Bail, and at laſt deſired to have back the Warrants of Attorney, ſaying, that he did this by the Advice of Mr. Naylor, who was angry with him for having ſigned them, and would not ſuffer him to put in Bail." This is the firſt and principal Charge againſt Mr. Naylor; the Futility of which Mr. Lawrence has endeavoured to prove by a Variety of Arguments. He contends, that merely to adviſe a Perſon not to appear and defend an Action, or not to put in Bail to it, is not in itſelf a Contempt of Court, becauſe even in England there are many Caſes, and there are ſtill more in this Country, where ſuch Advice is the beſt that can be given.—In Addition to theſe Arguments of Mr. Lawrence, I ſhall, as to this Charge, trouble your Lordſhips with only One Obſervation—Though it ſhall appear inconteſtibly true that Purbutty Churn Ghoſe did actually ſign the Warrants of Attorney deſcribed in the Affidavits, and was really deſirous of putting in Bail, it does not appear that he did the one Act, or was willing to do the other, with the Authority or even Privity of his Maſter, the Perſon whom thoſe Acts were intended to bind; on the contrary, it appears by Mr. Naylor's Affidavit, *that he had no ſuch Authority;* it is likewiſe Evident from the Deſcription which Purbutty himſelf gives of his Maſter's Situation.

He repreſents the Rajah Soondernarrain a principal Zemindar, and a Lord conſequently of Domains, ſuperior in Extent to Two Engliſh Counties, as abandoning all the Honours and Comforts of that elevated Situation in which Providence had placed him, and diſgracefully ſecreting himſelf, at the Approach even of a Feſtival, which his Dignity, his Character, his Reputation, called upon him to celebrate in a public Manner:—He is repreſented to have a painful Senſe of all theſe Evils; and is yet deſcribed as ſubmitting to them merely to avoid *One* ſtill greater—the Proceſs of this Court.——Under theſe Circumſtances, my Lords, could his Servant be juſtified in attempting to ſubject him to it, not only without his expreſs Authority, but contrary even to his moſt ardent Wiſhes?—Surely not.—The Warrants of Attorney then were, One of them beyond Expreſſion, abſurd, and both of them unauthorized and illegal; ſo likewiſe was the Diſpoſition to put in Bail.—And to diſſuade a Man from Acts thus unauthorized, thus illegal, was certainly no *Fault* in Mr. Naylor.—His Duty as a Man, as a Perſon whoſe Advice was aſked as an Attorney of the Court, required ſuch Conduct at his Hands, and rendered it highly meritorious.

The Second Charge is contained in the Affidavit of Mr. Lewin, and has, if poſſible, ſtill leſs Weight than the Firſt.

Mr. Lewin ſwears to a very innocent Converſation, upon a very common Topic, which happened to take Place between himſelf and Mr. Naylor.—Mr. Naylor admits the Converſation, nor does it in the ſmalleſt Degree tend to criminate him. It has no other Guilt than what it derives from Mr. Lewin's own Conjectures;—this penetrating Genius pretends to ſearch the very Heart and Reins of Mr. Naylor, and to diſcover there ſome ſecret Deſign, ſome latent Purpoſe for his making thoſe Enquiries, which I doubt not every old Woman in Calcutta was making at the ſame Time. But without much Imputation upon the Sagacity of Mr. Lewin, it may, I hope, be preſumed that he did not quite ſo well know what was paſſing in Mr. Naylor's Mind as Mr. Naylor himſelf did.—And this Gentleman, though he admits the Enquiries, denies he made them for the Purpoſe, or with the Views which Mr. Lewin has thought proper to ſuggeſt.—Such, my Lords, are the Two ſimple ill-ſupported Charges againſt Mr. Naylor, and ſuch are his Anſwers to them; Anſwers which, I hope, your Lordſhips will think fully exculpate him from every Shadow of Blame, and fully ſatisfy therefore the Intention of the Rule.

To the Affidavits which do not affect or concern him, he has not anſwered, nor is it neceſſary that he ſhould—If the Charges againſt him are not to govern and direct his Judgment in anſwering, what is? the Affidavits are not ſo framed, as to ſeek particular or expreſs Anſwers to particular and direct Queſtions.—Becauſe Mr. Lewin has ſet forth his Conjectures, his Fancies, is Mr. Naylor to inform the Court of his Conjectures, his Fancies?—I wonder this Knight Errant in Affidavit-making had not thought ſome of his ſleeping Chimeras as important upon this Occaſion, as his waking ones. If he had condeſcended to tell us of One or Two of his Dreams, Mr. Naylor perhaps would have been obliged to anſwer with One or Two of his.

I again repeat, my Lords, that Mr. Naylor having anſwered every Charge againſt him, and every Part of the Affidavits which at all relate to him, has anſwered fully, and has therefore in the fulleſt Manner complied with the Intention of the Rule—If the Rule had any more than this for its Object, there is no ſaying when or how it could be ſatisfied; it certainly never could, whilſt Mr. Naylor had a ſingle Idea remaining undivulged in his Breaſt, which Curioſity might wiſh to extort, and which Ingenuity might prove to be connected with the Buſineſs now before the Court.

The Affidavits which Mr. Naylor *has not* anſwered, ſeem to have not the ſmalleſt Connection with thoſe he *has* anſwered; they tend to Charge a different Set of Men, and ſpeak of a different Tranſaction, united at leaſt by no other Link than Mr. Lewin's Conjectures; but this Link is wholly broken and removed by Mr. Naylor's Affidavit, where it is ſworn, thoſe Conjectures were groundleſs and untrue; for any thing therefore that appears to the Court, Mr. Naylor was as ignorant of the Tranſaction at Coſſijurah as Mr. Lewin himſelf, and as little liable to anſwer for it. If theſe Reaſons do not prove that Mr. Naylor has fully complied with the Rule, and is therefore entitled to a diſcharge of it; if theſe Reaſons do not prove that he is exempt from the Neceſſity of anſwering further; the Reaſon which he has himſelf aſſigned in his Affidavits, I ſhould think does. —" He has ſworn that as to ſeveral other Matters, than thoſe anſwered, contained in the ſeveral Affidavits of William Findlay, William Saunders, and Kirtchunder, Sircar, he could not anſwer the ſame without diſcloſing what has come to his Knowledge, in his Capacity of Attorney to the United Company of Merchants of England trading to the Eaſt Indies, in his Official Communication with the Honourable Governor General and Council, and their Officers."

It is, I believe, a Maxim of our Law, and I am ſure right Reaſon dictates it, that an Attorney is not bound to reveal the Secrets of his Clients; it is a Maxim that has been adhered to in many Caſes, and was particularly ſo in the Caſe, Rex v^s Dixon.

3^d Burrows 1687. } Rex v^s Dixon.
E. T. 5. Geo. 3^d } A Subpœna out of the Crown Office had been ſerved upon Mr. Samuel Dixon, an Attorney, with a duces tecum of certain Papers hereafter mentioned, to give Evidence before the Grand Jury of the County of Northampton at the laſt Aſſizes there, and to produce Three Vouchers which had been produced, and inſiſted upon by one Mr. Peach, Mr. Dixon's Client, before a Maſter in Chancery; and this Subpœna, with the duces tecum, was in order to found a Proſecution by Way of Indictment againſt Peach (who had produced theſe Vouchers before the Maſter) for Forgery. Mr. Dixon did not appear before the Grand Jury in obedience to this Subpœna; whereupon, on Monday the 6th Inſtant, Mr. Wallace moved on Behalf of the Proſecutor for an Attachment againſt him for refuſing to appear, and had a Rule to ſhew Cauſe.—Mr. Caldecote now ſhewed Cauſe—He inſiſted, that Mr. Dixon could give no other Evidence, but of what had been communicated to him by his Client *in Confidence*, and therefore he was not compellable to produce theſe Papers againſt his Client, in order to prove him guilty of Forgery.—Lord Mansfield was clearly of this Opinion, that Mr. Dixon, inſtead of producing them againſt his Client, ought to have immediately upon receiving the Subpœna delivered them up to his Client—Mr. Juſtice Wilmot concurred that he ought not to have produced them againſt his Client—Mr. Juſtice Yates was of the ſame Opinion, and thought the Rule ought to be diſcharged with Coſts. The Rule was diſcharged with Coſts.

I am well aware that this Cauſe is not appoſite exactly in Point to the Caſe now before the Court, but it ſerves well to evince the Truth of the Maxim, and to ſhew the very wide Extent, the very great Latitude in which it has been received.—Here an Attorney was not bound to reveal the Secrets of his Client, though public Juſtice, the injured Laws of the Country, the Conviction of a Felon, ſeemed to require it;—nay, thoſe Papers which were held ſacred in the Hands of the Attorney, would, if they had been found upon the Principal, have been produced againſt him, and would perhaps have convicted him of Felony. If then the Breaſt of the Attorney is ſo ſacred a Repoſitory for the Secrets of his Client in common Caſes, how much more ſo ought it to be in this.—Mr. Naylor has the Honour of ſerving the Deputed Governors of this Country in a confidential official Capacity, and if the confidential Servants of a Government like this are obliged to reveal the Secrets which are entruſted to them, they may in ſome evil Hour divulge thoſe Facts, under the ſacred and ſteady Concealment of which may perhaps depend the Preſervation and Safety of this Country, and conſequently the Honour and Welfare of our own.

Mr. Brix ſaid, He ſhould obſerve on the Nature of the Charges contained in the Affidavit againſt Mr. Naylor.

Chief Juſtice. I wiſh you to carry your Obſervations further than the Affidavit, that you would obſerve upon the Matter diſcloſed by Mr. Naylor in his Affidavit.

Mr. Brix ſaid, That it evidently appeared, that but for Mr. Naylor's Advice, all this Miſchief would never have happened; that he agreed with Mr. Lawrence, that the Plaintiff had not ſwore he believed the Defendant was ſubject to the Juriſdiction of the Court, but he had done more; he had ſtated poſitive Facts, which by every Conſtruction of Law make him ſubject.

Chief Juſtice. The Affidavit is out of the Caſe, but the Court cannot ſuppoſe the Proceſs to have iſſued irregularly, unleſs it appears ſo.

Mr. Brix went on, and obſerved upon the Affidavit of Mr. Naylor: He ſaid, It was true, that Mr. Naylor had denied that he made the Enquiry for the Reaſons alledged by Mr. Lewin, but he had not ſaid what where his Reaſons; that in a Caſe of Contempt there ſhould be no Concealment: He admitted, That at Attorney in a Cauſe was not bound to diſcloſe Secrets confidentially communicated reſpecting the Caſe; but he denied that Mr. Naylor was or could be conſidered as the Attorney in this Cauſe? He ſaid, That though Mr. Naylor had not diſcovered much, yet he had ſhewn he knew a great deal, and as he candidly avowed he knew the whole Matter, he ought to be compelled to diſcloſe it on Interrogatories.

Chief Juſtice. — There never was a clearer Caſe for the granting an Attachment than this; ſeveral Charges have been made againſt Mr. Naylor, by the Affidavit of Hyderam Bonnagee and Lewin.—The one is a ſtrong Interference of Mr. Naylor with the Vakeel or known Agent of the Defendant, to prevent what was the evident Intention of the Party, the putting the Queſtion of Juriſdiction in the Way to be tried.—The whole Advice given by Mr. Naylor, tends to prevent this Queſtion being tried; the Advocate for Mr. Naylor avows it; and many ingenious Reaſons are given, why it may be not only not illegal but even the Duty of an Attorney of this Court to give ſuch Advice. My Senſe of the Duty of an Attorney is very different, and I apprehend my Bretheren concur with me. Much has been ſaid foreign to the Rule, but as it has been argued by an Advocate, it becomes neceſſary for me to make ſome Obſervations upon it, that it may not irregularly be ſuppoſed, that it has the Sanction of the Court, becauſe it is not anſwered. I confeſs, I cannot ſee the Force of the Diſtinction of Pleas, to the Juriſdiction in this Country and at Home.—Pleas in every Country muſt be tried by the Courts in which they are tendered, whether the Power is local or perſonal. It muſt be the Buſineſs of the Court to ſee, whether the Caſe before them is or is not a Caſe in which the Power is or is not to be exerted: I have never known of the Laws in any Country that did not leave it to the Court to try. If the Queſtion is not ſubmitted to the Court, the Court can only have a voluntary Juriſdiction: What Perſons come voluntary to a Court? It has been ſaid to be in the Nature of Coram non Judice. Will Mr. Lawrence, will the Governor General and Council, tell me by what Mode we can diſcriminate, unleſs by trying the Fact? Britiſh Subjects, in this Country, are Objects of the Court's Juriſdiction in Civil and Criminal Caſes. Natives, under certain Deſcriptions, it is ſaid by the Act of Parliament and Charter, ſhall be Objects of our Juriſdiction. Where is that to be enquired into? Is the Governor General and Council to make Enquiry, to ſend Mandates to the Court for us to ſtop proceeding, or to go on? This would be greater Subjection than ever the Mayor's Court were under, in whoſe Place we are put; and to remedy the Inconvenience of which Influence we came. If the Governor General and Council have not this Power, ſhall their Attorney? Shall any Advocate? Do the Governor General and Council poſſeſs it? Do they ſeriouſly ſuppoſe the Opinion of any Lawyer can juſtify them in the Exerciſe of it?—In Queſtions upon a Point of intricate Law, an Opinion given by an Advocate, whoſe Buſineſs it is, will, and ought, as to all criminal Matter, be an Excuſe; but only as to criminal Matter: In all civil Caſes they muſt abide the Conſequences of all illegal Acts, let who will adviſe them.—If they cannot decide, the Court muſt.—The Court have, though not required by the Charter, interpoſed the Affidavit of the Plaintiff, that the Defendant is an Object of their Juriſdiction, before their granting of Proceſs. This is a voluntary Act of the Court for the Benefit of Suitors, and is not pointed out either by the Act of Parliament or Charter.—The only Reaſon then for adhering to it is, becauſe we have made a Rule, and we ſhould otherwiſe act againſt our own Rule. But do not run into Miſtake; it is in the Power of the Court to repeal their Rule: Is it to be contended, that the Governor General and Council, under the Act, have the controlling Power over the Court, or its Proceſs? That they are to take Cognizance of Breaches of the Peace in its Offices?—If they do, it would be proper for them to make the Claim before His Majeſty in Council. We have now ſat near Five Years and a Half; in all this Time how comes it, that there has not been a ſingle Appeal on an Objection of Juriſdiction? What new Lights are thrown on this Matter? What new Information have the Governor General and Council received? Have they found out, by Experience, they have been wrong? Or is there ſome ſecret Agent lurking behind, who has more political, more legal Knowledge, than all the Council together? Whatever may be their Reaſons, however adviſed to carry them into Execution, I take this Firſt Opportunity to declare, that no Terror of Power ſhall in the leaſt intimidate me from granting Attachments againſt any who ſhall diſobey the Proceſs of the Court. It is in the Power of the Governor General and Council to prevent their Execution; but I mean to fling the utmoſt Reſponſibility upon thoſe who ſupport theſe Ideas.—I will not ſhrink from my Purpoſe; I have no Authority to command Troops; but I can put thoſe who do command them, in a Situation to anſwer to His Majeſty for the Contempt of His Authority. Mr. Brix's Obſervation was ſtrong. Mr. Naylor acted by his own Authority. When Parbutty came to Mr. Naylor, he knew that Mr. Wroughton was the Attorney in the Cauſe. Does any Attorney take upon him to adviſe when another is employed? It would have been but decent to have referred Parbutty to Mr. Wroughton. Mr. Naylor objects to Parbutty as acting without Authority. How is that Fact aſcertained? Mr. Naylor conceives he had no Authority. How does he endeavour to aſcertain it? Does he write to the Rajah? No; he writes to the Chief of Midnapore; and the Chief of Midnapore anſwers, No. What Evidence is that? How does it appear that what the Chief of Midnapore wrote was true? Is he an Oracle? Surely if Parbutty's Authority is objectionable, it is highly ſo in Mr. Naylor, who has no Pretence of Authority. In order to clear all Doubts of any Diſtinction between here and in England, we declare there can be no Diſtinction.—I am of Opinion, that every Perſon who gives ſuch Advice, is a Contemner of the King's Laws, and is puniſhable by this Court. This Advice is avowed by Mr. Naylor. An ingenious Colour is attempted to be given it It is ſaid, that the Defendant muſt enter into a Bail Bond, containing a Clauſe, conſenting to ſubmit to the Juriſdiction of the Court; and that therefore he will loſe the Benefit of his Plea in the Original Action. There is nothing more fallacious than this Argument. Though the Bail Bonds contain ſuch a Clauſe, the taking of Bail would be nugatory, if the Bail were exempt from our Juriſdiction. If this is wrong, I take upon me to have been the Adviſer; and, I believe, my Brethren concurred with me.—Mr. Lawrence ſays, That by entering into a Bail Bond, the Defendant would be precluded from his Benefit of the Plea to the Juriſdiction; but the Fact is not ſo. By the Rule which we have made, he is given an Opportunity of pleading to the Action, without prejudicing his Plea to the Juriſdiction.—As to the other Alternative, I confeſs I have racked my Invention, and cannot diſtinguiſh it from the Caſe of every one who cannot find Bail. Great Imputation is attempted to be flung on Mr. Lewin's Affidavit. Let us ſee with what Reaſon. Mr. Naylor, not employed in the Cauſe, comes to the Office, and enquires what Force was ſent to Coſſijurah? he is anſwered, Conſiderable Force, not exceeding One hundred; it looks as if it was pretty near an hundred.—Mr. Lewin ſwears he has heard Reſiſtance was given—Mr. Naylor is the Company's Attorney—The Company's Force overpowers the Sheriff's—Connect theſe Circumſtances, and is there a Man would not have made the ſame Conjectures? and yet he is a *bold Swearer*. Such Language is hardly decent. When Concluſions follow ſo fairly from Premiſes, it tends to prevent the fair Diſcloſure of Facts. The Bailiffs too, who are the Under Miniſters of the Court, are treated in the ſame Manner. I don't know that theſe Men are vile Wretches, Dungeon Villains—Honeſt Men will keep from making Affidavits, if they are to be ſubject to ſuch groſs Inſults. Mr. Lewin's Affidavit is to be anſwered: How is it anſwered? (Here the Chief Juſtice read the latter Part of Mr. Lewin's Affidavit.) To the Whole of theſe natural Deductions, Mr. Naylor anſwers ſhortly, that it was for none of the Reaſons ſuggeſted; but he ſhews us that he had Reaſons; it is not merely a Negative pregnant. He goes on to tell us, he has Secrets, which he ought not to diſcloſe. This clearly evinces Mr. Naylor's Knowledge of the whole Tranſaction. Why that was put into the Affidavit, I cannot ſee; but it is added, and a Queſtion of Law made on it, that an Attorney is not to diſcloſe the confidential Communications of his Clients; and for this, an Authority is quoted. It is ſo evident, that I am amazed it got into Burrows. Nothing could be clearer, than that, for the neceſſary Purpoſes of tranſacting a Cauſe, there muſt be a Confidence; if not, Clients would be afraid to defend Suits—I ſhould be extremely ſorry to ſee that Confidence broke through; and every one in Court muſt remember, that where it has been attempted, I have cenſured it at the firſt Glimpſe. The Charter gives the Right to the Company to appoint an Attorney, for the Purpoſes of appearing and pleading; but if the Governor General and Council chuſe to hold the Court at Arm's Length, the Court has a Right to appoint one. We know nothing of his Character; otherwiſe, if the Governor and Council have confidential Communications with him, other than in his official Intercourſe, it can apply no more, than if any By-ſtander was to object to give Evidence, becauſe he was ſpoke to in Confidence; it might be diſagreeable to him; but the Purpoſes of Juſtice require it, and the Courts would enforce Obedience. Neither Mr. Naylor nor his Advocate have ſtated the Occaſion of any confidential Intercourſe; but between Mr. Naylor and the Governor General and Council, is it poſſible there can have been any but for the Obſtruction of Juſtice? Does the Law allow that? Is that to be borne? I am of Opinion, if it was only for the laſt Clauſe of the Affidavit, that the Attachment ought to go; becauſe the Officer of the Court, who draws the Interrogatories, will not confine himſelf to the Contempts charged againſt Mr. Naylor; he has a Right to interrogate to any Matter ſuggeſted by Mr. Naylor's Affidavit. Mr. Naylor diſcloſes that he is ſecret, and that he means ſo to be—I preſume, he will no more anſwer Interrogatories, than the Affidavits. Mr. Naylor may put himſelf in the Situation of a Gentleman, who was very briſk in publiſhing Libels; who, after being confined for ſome Time, made Application to the Court, to ſhift from one Gaol to another; but the Court interpoſed, and held him cloſely till he anſwered the Matters in the Affidavit.—Upon the Whole, I am not only of Opinion that there are good Grounds for the Attachment, upon the Affidavits filed againſt Mr. Naylor, but think the Grounds are increaſed from his own Affidavit.

Sir Robert Chambers ſaid, He was of the ſame Opinion.

Mr. Juſtice Hyde ſaid, He was alſo of the ſame Opinion; that he thought it very proper the whole Matter ſhould be enquired into by Interrogatories.—The Attachment was accordingly ordered.

Mr. Thompſon, on the Part of Mr. Naylor, proffered Bail, and ſaid, As it was in the Diſcretion of the Court, he hoped the Court would adopt that lenient Mode, and take a Recognizance.

Chief Juſtice.—It is true, the Diſcretion is lodged in the Court; but the Court muſt vindicate its Authority: If we accepted Bail, it could be no Puniſhment. We mean to inflict an exemplary one.

Leaſt the Sheriff ſhould not underſtand the Mode of Confinement on Attachment, it is neceſſary he ſhould underſtand, that he muſt confine his Priſoner within the Walls of the Gaol.

Fort William,
the 4th March, 1780.

True Copies of the Letter and Minutes of the Supreme Court, received from the Honourable Company's Attorney.

Geo. Hodgſon, Sec^y.

COSSIJURAH APPENDIX, N° 22.

In the Supreme Court of Judicature, at Fort William in Bengal.

First Term in the Year of our Lord Chriſt, One thouſand Seven hundred and Eighty.

Fort William in Bengal. } COSSINAUT Baboo, by Ralph Uvedale his Attorney, complains againſt Warren Haſtings of Calcutta, at Fort William in Bengal, Eſquire, Richard Barwell of Calcutta aforeſaid, Eſquire, Philip Francis of Calcutta aforeſaid, Eſquire, Edward Wheler of the ſame Place, Eſquire, being Perſons reſpectively ſubject to the Juriſdiction of this Court, of a Plea of Treſpaſs on the Caſe. For that whereas one Rajah Soondernarrain, on the Fourteenth Day of July, in the Year of Chriſt One thouſand Seven hundred and Seventy-four, at Calcutta, at Fort William, in the Province of Bengal aforeſaid, was indebted unto the ſaid Coſſinaut Baboo in the Sum of One hundred and Eighty-three thouſand Four hundred and Five Sicca Rupees, Thirteen Annas, and Eight Pice, of lawful Money of Bengal, for ſo much Money before that Time lent and advanced by the ſaid Coſſinaut Baboo to the ſaid Rajah Soondernarrain, at his ſpecial Inſtance and Requeſt; and being ſo indebted, the ſaid Rajah Soondernarrain, in Conſideration thereof, afterwards, to wit, on the ſame Day and Year aforeſaid, at Calcutta aforeſaid, undertook, and to the ſaid Coſſinaut Baboo then and there faithfully promiſed, to pay to him the ſaid Sum of Money, whenever afterwards he ſhould be thereunto requeſted: But the ſaid Sum of Money not being paid by the ſaid Rajah Soondernarrain to the ſaid Coſſinaut Baboo, nor the ſaid Promiſe being anywiſe performed, he the ſaid Coſſinaut Baboo, for recovering his Damages ſuſtained on the Occaſion, of the not performing the ſaid Promiſe and Undertaking, afterwards, to wit, the Seventeenth Day of Auguſt, in the Year of our Lord One thouſand Seven hundred and Seventy-nine, cauſed to be preferred to the Supreme Court of Judicature at Fort William in Bengal, and filed of Record in the ſaid Court, according to the Uſage and Cuſtom of the ſaid Court, a certain Plaint or Bill in Writing, containing the ſaid Cauſe of Action, and ſtating the Damage of the ſaid Coſſinaut Baboo to be Five hundred thouſand Sicca Rupees, and afterwards, to wit, on the ſame Day and Year aforeſaid, he the ſaid Coſſinaut Baboo, according to the Uſage and Cuſtom of the ſaid Court, cauſed to be iſſued out of the ſaid Court, a certain Writ of our Lord the King called a Writ of Capias ad reſpondendum, directed to the Sheriff of Calcutta; by which ſaid Writ, the ſaid Lord the King commanded the ſaid Sheriff of Calcutta to arreſt and ſeize Rajah Soondernarrain, then or late of Coſſijurah, if he could be found in the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, and keep him ſafely, ſo that he might have his Body before the Juſtices of the ſaid Supreme Court of Judicature, at Fort William in Bengal, on Friday the Twenty-ſecond Day of October then next, to anſwer to the ſaid Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe, for the Payment of One hundred and Eighty three thouſand Four hundred and Five Sicca Rupees, Thirteen Annas, and Eight Pice, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Court, and to give ſufficient Security to be approved of by the ſaid Court, that he would ſtand to and perform the Judgment of the ſaid Court upon the Premiſes, and pay all ſuch Sum or Sums of Money as ſhould be thereby awarded; which ſaid Writ, afterwards and before the Return thereof, to wit, on the Seventeenth Day of Auguſt, in the Year aforeſaid, at Calcutta, in the Province aforeſaid, was delivered to Sir John Hadley D'Oyly, Baronet, who then and there, and from thence, until and at, and after the Return thereof, was Sheriff of Calcutta, to be executed in due Form of Law; and the ſaid Sir John Hadley D'Oyly afterwards, and at the Return of the ſaid Writ, to wit, on the Twenty-ſecond Day of October, in the Year aforeſaid, returned to the Juſtices of the ſaid Court, in and upon the ſaid Writ, that he had cauſed due Search to be made after the ſaid Rajah Soondernarrain, but could not find him within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, as by the ſaid Writ and the Return thereof, now remaining in the ſaid Supreme Court of Judicature, at Fort William in Bengal, more fully appears; whereupon the ſaid Coſſinaut Baboo afterwards, to wit, on the Twelfth Day of November in the Year aforeſaid, at Calcutta aforeſaid, in the Province aforeſaid, with an Intent to cauſe the Houſes, Lands, and Goods, Effects and Debts of the ſaid Rajah Soondernarrain, to be ſeized and ſequeſtered, and to be detained until the ſaid Rajah Soondernarrain ſhould appear, and abide the Order of the ſaid Court, according to the Uſage and Cuſtom of the ſaid Court, cauſed to be iſſued out of the ſaid Supreme Court of Judicature at Fort William in Bengal, a certain other Writ of our ſaid Lord the King, called a Writ of Sequeſtration, directed to the ſaid Sheriff of Calcutta; by which ſaid Writ, reciting that our ſaid Lord the King had lately commanded the ſaid Sheriff, that he ſhould arreſt and ſeize the ſaid Rajah Soondernarrain, in order that, the ſaid Sheriff might have his Body before the Juſtices of the ſaid Supreme Court of Judicature at Fort William in Bengal, on the Twenty-ſecond Day of October then laſt, to anſwer to Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe for the Payment of Sicca Rupees One hundred and Eighty-three thouſand Four hundred and Five, Thirteen Annas, and Eight Pice, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Court; and reciting, that the ſaid Sheriff had returned that the ſaid Rajah Soondernarrain was not to be found within the ſaid Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them; and alſo reciting, that the ſaid Coſſinaut Baboo had made Proof, verifying his ſaid Demand, to the Satisfaction of the Juſtices of the Supreme Court of Judicature at Fort William in Bengal; the ſaid Lord the King commanded the ſaid Sheriff to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts of the ſaid Rajah Soondernarrain, within the ſaid Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, to the Value of Sicca Rupees Three hundred thouſand, and them ſafely keep and detain, until the ſaid Rajah Soondernarrain ſhould appear before the ſaid Juſtices of the ſaid Supreme Court, to anſwer to the ſaid Coſſinaut Baboo, of the Plea aforeſaid, and until he ſhould abide ſuch Order as ſhould be made by the ſaid Court, upon the Premiſſes, in like Manner as if he had appeared upon the former Proceſs, to the ſaid Sheriff directed, or until the ſaid Sheriff ſhould receive the further Order of the ſaid Court therein; and that the ſaid Sheriff ſhould, on Friday the Seventh Day of January then next, inform the ſaid Court what Houſes, Lands, Goods, Effects, and Debts, of the ſaid Rajah Soondernarrain, he had ſo ſeized and ſequeſtered, and what were the true and reſpective Values of the ſame, and in whoſe Poſſeſſion the ſame were at the Time they were reſpectively ſeized, as by the ſaid Writ now remaining of Record in the ſaid Court more fully appears; which ſaid Writ afterwards and before the Return thereof, to wit, on the Twelfth Day of November, in the Year aforeſaid, was delivered to the ſaid Sir John Hadley D'Oyly then being Sheriff as aforeſaid, to be executed in due Form of Law; by virtue of which ſaid Writ the ſaid Sir John Hadley D'Oyly afterwards, to wit, on the Thirteenth Day of November, in the Year aforeſaid, at Calcutta aforeſaid, made and iſſued his Warrant under his Hand and Seal, directed to William Findlay, Shack Jaffier, Paharry, Baboolah, Dooſtee, Aitbarree, Sadoolah, Burroo Paharry, Badoola Caubil, Nuckoo, Khan Mahomed Sajood Khan, Oolee Mamood, Donneſs Cowly Roy, and Prun Sing, and each of them, his Bailiffs, and he the ſame Sir John Hadley D'Oyly did thereby command the ſaid William Findlay, Shack Jaffier, Paharry, Baboolah, Dooſtee, Aitbarree, Sadoolah, Burroo Paharry, Caubil, Nuckhoo, Khan Mahomed Sajood Cawn, Oolee Mamood, Donneſs Cowly Roy, and Prun Sing, to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts, of the ſaid Rajah Soondernarrain, within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, to the Value of Sicca Rupees 300,000, and them ſafely keep and detain till the ſaid Rajah Soondernarrain ſhould appear before the Juſtices of the Supreme Court of Judicature at Fort William in Bengal, to anſwer to Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Supreme Court; ſo that ſuch Sequeſtration ſhould be by them made on or before the Seventh Day of January then next; and the ſaid Sir John Hadley D'Oyly, Sheriff as aforeſaid, afterwards, to wit, on the Twenty-fifth Day of November in the Year aforeſaid, at Calcutta aforeſaid, made and iſſued another Warrant under his Hand and Seal, directed to William Saunders, John Singleton, Daniel Dangerfield, Samuel Leeth, Hector M'Lean, John Rogers, John Hancock, William Hopkins, William Rudd, Charles Brown, Ralph Scales, and John Kinnear, his Bailiffs, commanding them to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts of the Rajah Soondernarrain, within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, to the Value of Sicca Rupees 300,000, and them ſafely keep and detain until the ſaid Rajah Soondernarrain ſhould appear before the Juſtices of the Supreme Court of Judicature at Fort William in Bengal, to anſwer to the ſaid Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Court, ſo that ſuch Sequeſtration ſhould be made on or before the Seventh Day of January then next; by virtue of which ſaid Warrants, the ſaid Bailiffs afterwards and before the Return of the ſaid Writ of Sequeſtration, to wit, on the Twenty-eighth Day of November in the Year aforeſaid, and on divers other Days and Times between that Day and the Third Day of December following, within the ſaid Provinces, Countries, or Diſtricts of Bengal, Bahar, and Oriſſa, to wit, at Coſſijurah, in the Province of Bengal aforeſaid, did ſeize and ſequeſter divers Houſes, Lands, Goods, and Effects, of the ſaid Rajah Soondernarrain, being, at the Time of ſuch Seizure, in the Poſſeſſion of the ſaid Rajah Soondernarrain, to the Value of 2,55,934 Sicca Rupees; and the ſaid Bailiffs, under and by virtue of the reſpective Warrants aforeſaid, after ſuch the Seizure aforeſaid, to wit, on the Third Day of December laſt aforeſaid, had and detained the ſaid Houſes, Lands, Goods, and Effects in their Cuſtody and Poſſeſſion, until the ſaid Warren Haſtings, Richard Barwell, Philip Francis, and Edward Wheler, aided and aſſiſted by divers Soldiers, Sepoys, and other Perſons, acting by and under the Command and Authority of the ſaid Warren Haſtings, Richard Barwell, Philip Francis, and Edward Wheler, and to the ſaid Coſſinaut Baboo unknown, afterwards, to wit, on the 3d Day of December, in the Year aforeſaid, and on divers other Days and Times between that Day and the 10th Day of December, in the Year aforeſaid, at Coſſijurah aforeſaid, in the Province aforeſaid, knowing the ſaid Houſes, Lands, Goods, and Effects of the ſaid Rajah Soondernarrain to be ſeized and ſequeſtered by the ſaid Bailiffs, for the Cauſe aforeſaid, but contriving, and maliciouſly intending to injure and prejudice the ſaid Coſſinaut Baboo in this Behalf, and to deprive him of his ſaid Debt, and the Means of obtaining the ſame, with Force and Arms made an Aſſault upon the ſaid Bailiff, ſo acting under the Warrants aforeſaid, and took and reſcued the ſaid Houſes, Lands, Goods, and Effects of the ſaid Rajah Soondernarrain, out of the Hands, Cuſtody, and Poſſeſſion of the ſaid Bailiffs, againſt the Will of the ſaid Sir John Hadley D'Oyly, and without the Conſent of the ſaid Bailiffs, and conveyed the ſaid Goods and Effects away, to Places altogether unknown to the ſaid Bailiffs, the ſaid Sir John Hadley D'Oyly, and to the ſaid Coſſinaut Baboo, and drove away, and removed them the ſaid Bailiffs from the Poſſeſſion of the ſaid Houſes and Lands; by Means whereof the ſaid Coſſinaut Baboo not only ſuſtained and expended divers Labours, Journies, and Expences, in complaining againſt and proſecuting the ſaid Rajah Soondernarrain, but alſo the ſaid Coſſinaut Baboo hath hitherto totally loſt his ſaid Debt, by reaſon of the ſaid Reſcue committed and done by the ſaid Warren Haſtings, Richard Barwell, Philip Francis, and Edward Wheler, and the conveying the ſaid Goods and Effects to Places unknown to the ſaid Bailiffs, the ſaid Sir John Hadley D'Oyly, and to the ſaid Coſſinaut Baboo, and the driving away and removing the ſaid Bailiffs from the Poſſeſſion of the ſaid Houſes and Lands as aforeſaid. And whereas the ſaid Rajah Soondernarrain afterwards, to wit, on the ſaid 14th Day of July, in the Year of our Lord 1774, at Calcutta, at Fort William, in the Province of Bengal aforeſaid, was indebted to the ſaid Coſſinaut Baboo another Sum of 1,83,405 Sicca Rupees 13 Annas and 8 Pice of lawful Money of Bengal, for ſo much Money before that Time lent and advanced by the ſaid Coſſinaut Baboo to the ſaid Rajah Soondernarrain, at his ſpecial Inſtance and Requeſt; and being ſo indebted, the ſaid Rajah Soondernarrain, in Conſideration thereof, afterwards, to wit, on the ſame Day and Year aforeſaid, at Calcutta aforeſaid, undertook, and to the ſaid Coſſinaut Baboo then and there faithfully promiſed, to pay to him the ſaid Sum of Money laſt-mentioned, whenever afterwards he ſhould be thereunto requeſted; but the ſaid Sum of Money not being paid by the ſaid Rajah Soondernarrain to the ſaid Coſſinaut Baboo, nor the ſaid Promiſe being any wiſe performed, he the ſaid Coſſinaut Baboo, for recovering his Damages ſuſtained on the Occaſion of the not performing of the ſaid Promiſe, afterwards, to wit, on the 17th Day of Auguſt, in the Year of our Lord 1779, cauſed to be preferred to the ſaid Supreme Court of Judicature, at Fort William in Bengal, and filed of Record in the ſaid Court, according to the Uſage and Cuſtom of the ſaid Court, a certain other Plaint or Bill in Writing, containing the ſaid Cauſe of Action, and ſtating the Damage of the ſaid Coſſinaut Baboo to be Five hundred thouſand Sicca Rupees; and afterwards, to wit, on the Day and Year aforeſaid, he the ſaid Coſſinaut Baboo, according to the Uſage and Cuſtom of the ſaid Court, cauſed to be iſſued out of the ſaid Court, a certain other Writ of our Lord the King, called a Writ of Capias ad Reſpondendum, directed to the Sheriff of Calcutta, by which ſaid Writ the ſaid Lord the King commanded the ſaid Sheriff to arreſt and ſeize Rajah Soondernarrain, then or late of Coſſijurah, if he ſhould be found in the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, and keep him ſafely, ſo that he might have his Body before the Juſtices of the ſaid Supreme Court of Judicature, at Fort William, in Bengal, on Friday the Twenty-ſecond Day of October then next, to anſwer to the ſaid Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe, for the Payment of One hundred and Eighty-three Thouſand Four hundred and Five Sicca Rupees, Thirteen Annas, and Eight Pice, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Court, and to give ſufficient Security, to be approved of by the ſaid Court, that he would ſtand to and perform the Judgment of the ſaid Court upon the Premiſes, and pay all ſuch Sum and Sums of Money as ſhould be thereby awarded; which ſaid laſt-mentioned Writ afterwards, and before the Return thereof, to wit, on the Seventeenth Day of Auguſt, in the Year laſt aforeſaid, at Calcutta, in the Province aforeſaid, was delivered unto Sir John Hadley D'Oyly, Baronet, who then and there, and from thence, until, and at, and after the Return thereof, was Sheriff of Calcutta, to be executed in due Form of Law; and the ſaid Sir John Hadley D'Oyly afterwards, and at the Return of the ſaid Writ, to wit, on the Twenty-ſecond Day of October, in the laſt Year aforeſaid, returned to the Juſtices of the ſaid Court, in and upon the ſaid Writ, that the ſaid Rajah Soondernarrain was not to be found within the Provinces, Diſtricts, and Countries of Bengal, Bahar, and Oriſſa, or any of them, as by the ſame Writ, and the Return thereof, now remaining in the ſaid Supreme Court, more fully appears; whereupon the ſaid Coſſinaut Baboo afterwards, to wit, on the Twelfth Day of November, in the Year laſt aforeſaid, at Calcutta aforeſaid, in the Province aforeſaid, with an Intent to cauſe the Houſes, Lands, Goods, and Effects, and Debts, of the ſaid Rajah Soondernarrain, to be ſeized and ſequeſtered, and to be detained until the ſaid Rajah Soondernarrain ſhould appear and abide the Order of the ſaid Court, according to the Uſage and Cuſtom of the ſaid Court, cauſed to be iſſued out of the ſaid Supreme Court of Judicature, at Fort William in Bengal, a certain other Writ of our ſaid Lord the King, called a Writ of Sequeſtration, directed to the ſaid Sheriff of Calcutta, by which ſaid laſt-mentioned Writ the ſaid Lord the King commanded the ſaid Sheriff to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts of the ſaid Rajah Soondernarrain, within the ſaid Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, to the Value of Sicca Rupees Three hundred thouſand, and them ſafely keep and detain until the ſaid Rajah Soondernarrain ſhould appear before the ſaid Juſtices of the ſaid Supreme Court, to anſwer to the ſaid Coſſinaut, of the Plea aforeſaid, and until he ſhould abide ſuch Order as ſhould be made by the ſaid Court upon the Premiſes, in like Manner as if he had appeared upon the former Proceſs to the ſaid Sheriff directed, or until the ſaid Sheriff ſhould receive the further Order of the ſaid Court therein; and that the ſaid Sheriff ſhould, on Friday the Seventh Day of January then next, inform the ſaid Court what Houſes, Lands, Goods, Effects, and Debts he had ſo ſeized and ſequeſtered, and what were the true and reſpective Values of the ſame, and in whoſe Poſſeſſions the ſame were at the Time they were reſpectively ſeized, as by the ſaid Writ remaining of Record in the ſaid Court more fully appears; which ſaid Writ afterwards, and before the Return thereof, to wit, on the 12th Day of November, in the Year aforeſaid, was delivered to the ſaid Sir John Hadley D'Oyly, then being Sheriff as aforeſaid, to be executed in due Form of Law; by virtue of which ſaid Writ, the ſaid Sir John Hadley D'Oyly afterwards, to wit, on the Thirteenth Day of November, in the Year aforeſaid, at Calcutta aforeſaid, made and iſſued his Warrant, under his Hand and Seal, directed to William Findlay, Shack Jaffer, Paharry Baboolah, Cawbil, Khan Mahomed, Sajood Cawn, Oolee Mamood, Donneſs Cowlee Roy, and Prim Sing, and each of them, his Bailiffs; and he the ſaid Sir John Hadley D'Oyly did thereby command the ſaid William Findlay, Shack Jaffer, Paharry Baboolah, Dooſtee, Aitbarree, Sadoolah, Bimroo Paharry, Baboolah, Cawbel, Khan Mahomed, Sajood Cawn, Coolee Mamood, Donneſs Cowlee Roy, and Prim Sing, to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts of the ſaid Rajah Soondernarrain, within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, to the Value of Sicca Rupees Three hundred thouſand, and them ſafely keep and detain, until the ſaid Rajah Soondernarrain ſhould appear before the Juſtices of the ſaid Supreme Court, to anſwer to the ſaid Coſſinaut Baboo in a Plea of Treſpaſs on the Caſe, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Court, ſo that ſuch Sequeſtration ſhould be by them made on or before the Seventh Day of January then next; and the ſaid Sir John Hadley D'Oyly, ſo being Sheriff as aforeſaid, afterwards, to wit, on the Twenty-fifth Day of November, in the Year aforeſaid, at Calcutta aforeſaid, in the Province aforeſaid, made and iſſued another Warrant, under his Hand and Seal, directed to William Saunders, John Singleton, Daniel Dangerfield, Samuel Leett, Hector M'Lean, John Rogers, John Hancock, William Hopkins, William Rudd, Charles Brown, Ralph Scales, and John Kennear, his Bailiffs, commanding them to ſeize and ſequeſter the Houſes, Lands, Goods, Effects, and Debts of the ſaid Rajah Soondernarrain, within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, or any of them, to the Value of Sicca Rupees Three hundred thouſand, and them ſafely keep and detain until the ſaid Rajah Soondernarrain ſhould appear before the Juſtices of the Supreme Court of Judicature, at Fort William in Bengal, to anſwer to the ſaid Coſſinaut Baboo, in a Plea of Treſpaſs on the Caſe, whereof the ſaid Coſſinaut Baboo had filed his Plaint of Record in the ſaid Court, ſo that ſuch Sequeſtration ſhould be made on or before the Seventh Day of January then next; by virtue of which Warrants the ſaid Bailiffs afterwards, and before the Return of the ſaid laſt-mentioned Writ of Sequeſtration, to wit, on the Twenty-eighth Day of November, in the Year aforeſaid, and on divers other Days and Times between that Time and the Third Day of December following, within the Provinces, Diſtricts, or Countries of Bengal, Bahar, and Oriſſa, to wit, at Coſſijurah, in the Province of Bengal aforeſaid, did ſeize and ſequeſter divers other Houſes, Lands, Goods, and Effects of the ſaid Rajah Soondernarrain, being at the Time of ſuch laſt-mentioned Seizure in the Poſſeſſion of the ſaid Rajah Soondernarrain, to the Value of other Two hundred and Fifty-five thouſand Nine hundred and Thirty-four Sicca Rupees; and the ſaid Bailiffs, under and by virtue of the ſaid reſpective Warrants laſt-mentioned, then, to wit, on the Third Day of December, in the Year aforeſaid, had and detained the ſaid laſt-mentioned Houſes, Lands, Goods, and Effects of the ſaid Rajah Soondernarrain, in their Cuſtody and Poſſeſſion, until divers Soldiers, Sepoys, and other Perſons, acting by and under the Order, Command, and Authority of the ſaid Warren Haſtings, Richard Barwell, Philip Francis, and Edward Wheler, and to the ſaid Coſſinaut Baboo unknown, afterwards, to wit, on the Third Day of December, in the Year laſt aforeſaid, and on divers other Days and Times between that Day and the Tenth Day of December, in the Year aforeſaid, at Coſſijurah aforeſaid, in the Province aforeſaid (which ſaid

Warren Haſtings, Richard Barwell, Philip Francis, and Edward Wheler, well knowing the ſaid Houſes, Lands, Goods, and Effects of the ſaid Rajah Soondernarrain to be ſeized and ſequeſtered by the ſaid Bailiffs, for the Cauſe aforeſaid, with Force and Arms made another Aſſault upon the ſaid Bailiffs ſo acting under the Warrants aforeſaid, and by and under ſuch the Order, Command, and Authority aforeſaid, took and reſcued the ſaid Houſes, Lands, Goods and Effects of the ſaid Rajah Soondernarrain laſt-mentioned, out of the Hands, Cuſtody, and Poſſeſſion of the ſaid Bailiffs, againſt the Will of the ſaid Sir John Hadley D'Oyly, and without the Conſent of the ſaid Bailiffs, and conveyed the ſaid laſt-mentioned Goods and Effects away to Places altogether unknown to the ſaid Bailiffs, the ſaid Sir John Hadley D'Oyly, and the ſaid Coſſinaut Baboo, and drove away and removed them the ſaid Bailiffs from the Poſſeſſion of the ſaid Houſes and Lands laſt-mentioned; by Means whereof the ſaid Coſſinaut Baboo not only ſuſtained and expended divers other Labours, Journies, and Expences, in complaining againſt and proſecuting the ſaid Rajah Soondernarrain, but alſo the ſaid Coſſinaut Baboo hath hitherto totally loſt his ſaid Debt, by reaſon of the ſaid Reſcue committed and done by the ſaid Soldiers, Sepoys, and other Perſons acting by and under the Order, Command, and Authority of the ſaid Warren Haſtings, Richard Barwell, Philip Francis, and Edward Wheler, and the conveying the ſaid Goods and Effects laſt-mentioned to Places to the ſaid Bailiffs, the ſaid Sir John Hadley D'Oyly, and the ſaid Coſſinaut Baboo unknown, and the driving away and removing the ſaid Bailiffs from the Poſſeſſion of the ſaid laſt-mentioned Houſes and Lands as aforeſaid; whereof the ſaid Coſſinaut Baboo ſays he is injured, and hath ſuſtained Damages to the Value of Five hundred thouſand Sicca Rupees; and therefore he brings Suit, &c.

A true Copy.

Ralph Uvedale,
Attorney for the Plaintiff.

(Signed) Rᵈ Litchfield,
Prothonotary.

COSSIJURAH APPENDIX, Nº 23.

Copy Letter from Mr. Naylor, with the Interrogatories accompanying it.

To the Honourable Warren Haſtings, Eſq; Governor General, &c. Council of Revenue, at Fort William.

Honourable Sir, and Sirs,

I Have the Honour to tranſmit you a Copy of the Interrogatories to which I have been called to anſwer in the criminal Proſecution now pending againſt me.

The Exerciſe of the Power of Interrogatory over your Officers in confidential Situations, threatens the moſt alarming and deſtructive Conſequences to this Government, which from the Lateneſs of its Origin, from local Defects, and other Cauſes, remains as yet unarmed with an expreſs Delegation of thoſe Powers and Privileges which are neceſſary to its Support, and eſſential to its Adminiſtration; and the more eſpecially ſo, if that Power is executed in a Manner ſimilar to the preſent, wherein the moſt wide and extravagant Latitude has been taken, by the Drawer of the Interrogatories, who, departing from the original Charge, has queſtioned me to Matters foreign to, and wholly unconnected with it; for it is a ſerious Truth that my Anſwers muſt not only diſcloſe my moſt confidential Communications with my Superiors, but may affect, in their Conſequences, many others, who, for having only acted in the faithful Diſcharge of their Duty, under the Obligation of an Oath of Fidelity to the Company may feel the Reſentment of the Court as I have.

This Meaſure has, I preſume, fully verified the Apprehenſion which I have before ſuggeſted to your Honourable Board, that the ultimate Purpoſe of the Charge was, to procure from me a Diſcloſure of your Councils. In the Sufferance of this Power, the Dignity of Government ſhall be loſt, and the Adminiſtration of its Powers weakened, if not wholly annihilated; your Commands will be received with Diffidence and Diſtruſt; and thoſe of your Agents who ſhall dare to execute them, will do it with Heſitation, and tremble at the Danger which attends the Obſervance of their Duty.

To

[illegible] every private Consideration to myself must yield, and I shall [illegible] the End of this Contest, submitting and conforming to such Directions [illegible] of your Honourable Board shall suggest, with which at a convenient [illegible] I [illegible] to be honoured.

[illegible] well aware that on some future Day the Court will be disposed to disapprove of these Interrogatories in their present Form, should an Opportunity remain to it for so doing; I shall therefore, should it be your Pleasure that I shall answer them, and having the Exceptions argued and insisted on by my Counsel, by that Means give them the Sanction of the Judicature, and render them its Acts.

Calcutta Jail,
9th March, 1780.

I have the Honour to be, &c.
(Signed) North Naylor,
Attʸ to the Honᵇˡᵉ Com.

In the Supreme Court of Judicature
at Fort William in Bengal.

The King
V^s.
North Naylor.
} Interrogatories to be administered unto the said North Naylor, now in the Custody of the Sheriff of the Town of Calcutta, on an Attachment issued at the Suit of the Crown, on the Prosecution of Cossinaut Baboo, for Contempt.

First Interrogatory. At what particular Time did Parbutty Churn Ghose, named in an Affidavit made by you the Twenty-ninth Day of January last, in this Cause, first come to you; and did he so voluntarily, and attend you of his own Accord, or was it in consequence of his being sent for by you, or by any other Person, and whom by your Order and with your Privity, or by whom and by whose Order was he sent to you, to your Knowledge or Belief, and if sent for by you, was it in consequence of Instructions given to you by the Governor General and Council of this Presidency collectively, or either of the Members individually, or any other Person or Persons, and whom acting under this, or any or either of their Order? Declare and set forth the whole of the Conversation that passed between you and the said Parbutty Churn Ghose, when he first came to you, concerning an Action which had then been instituted, or was about to be instituted in this Court, by one Cossinaut Baboo against Rajah Soondernarrain. Declare all you know, have heard, and believe, respecting the several Matters and Things enquired after in this Interrogatory, together with the Reasons of such your Knowledge and Belief, fully and at large.

Second Interrogatory. Did the said Parbutty Churn Ghose attend you more than once, and if so, at what particular Time or Times, and did he at all, or any, or either, and which of those Times, attend you voluntarily and of his own Accord, or was it in consequence of his being sent for by you or by any other Person, and whom by your Order or with your Privity, or by whom, or by whose Order was he sent to you at any or either of those Times, to your Knowledge or Belief; and if sent for by you, was it in consequence of any Instructions given to you by the Governor General and Council of this Presidency collectively, or any or either, and which of the Members thereof individually, or any other Person or Persons, and whom, acting under their, or any, or either, and which of their Orders? And declare and set forth particularly the several Conversations that passed between you and the said Parbutty Churn Ghose at all, each, and every of the Times when he so attended you, so far as the same concerned the Action in the preceding Interrogatory mentioned, or any Circumstance in any wise relating thereto, or to the said Cossinaut Baboo and Rajah Soondernarrain, or the Matters in Dispute between them; declare all you know, have heard, and believe, respecting the several Matters and Things enquired after in this Interrogatory, together with the Causes and Reasons of such your Knowledge and Belief, fully and at large.

Third Interrogatory. Did the said Parbutty Churn Ghose at any or either, and which of those Times, inform you that he had received any Orders or Directions from the said Rajah Soondernarrain, to appear to the said Action, or any other Action or Actions which had been or might be instituted against him by the said Cossinaut Baboo, or any other Person or Persons, or to apply to or employ an Attorney or Attornies of this Court, to appear for him to any such Action or Actions, or to defend any such Action or Actions; and did not the said Parbutty Churn Ghose inform you, at the same and what particular Time, that he had actually applied to and employed Mr. George Wroughton, one of the Attornies of this Court, or some other Attorney thereof; and whom, by Name, to appear to or defend, or to put in Bail to the Action which had been or was about to be instituted by the said Cossinaut Baboo against the said Rajah Soondernarrain, or in any other; and what Action or Actions thence commenced or intended to be commenced, in this Court against the said Rajah Soondernarrain by any other Person or Persons, and whom? Set forth the whole of the Information which the said Parbutty Churn Ghose at any or either Time or Times gave you concerning any Orders, Directions, or Instructions, which he had received from the said Rajah Soondernarrain, or from any Person or Persons, and whom by Name, on his Behalf, respecting the said Action so instituted, or about to be instituted by the said Cossinaut Baboo against the said Rajah Soondernarrain, or any other Action or

Actions as aforeſaid, or reſpecting any Meaſures to be taken on the Part of the ſaid Rajah Soondernarrain, in or towards the appearing to, or defending of, any or either, and which, of ſuch Action or Actions? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, together with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Fourth Interrogatory. Did the ſaid Parbutty Churn Ghoſe ever, and at what particular Time or Times inform you, that he came to Calcutta as the Vakeel or Agent of the ſaid Rajah Soondernarrain, or by his Orders or Directions, for the Purpoſe of inſtructing an Attorney of this Court to appear to, or defend, or put in Bail, or to purſue ſuch other Steps as ſhould be neceſſary, as he ſhould be adviſed to, on the Part of the ſaid Rajah Soondernarrain, towards the Defence of the ſaid Action in the preceding Interrogatory mentioned, or any other; and what Action or Actions, or for what other Purpoſe, did the ſaid Parbutty Churn Ghoſe inform you, that he had come down to Calcutta; and did not the ſaid Parbutty Churn Ghoſe inform you at the ſame and what Time or Times that he was fully authorized, or otherwiſe, and in what particular Manner empowered, by the ſaid Rajah Soondernarrain, ſo to inſtruct an Attorney of this Court, or to take ſuch Steps as ſhould be neceſſary, or as he ſhould be adviſed on the Part of the ſaid Rajah Soondernarrain, towards the Defence of the ſaid Action, or any other, and what Action or Actions? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, together with the Cauſes and Reaſons of your Knowledge and Belief, fully and at large.

Fifth Interrogatory. When the ſaid Parbutty Churn Ghoſe ſome Time in the Beginning of October, or about that Time, informed you, That he belived he could procure Bail for the ſaid Rajah Soondernarrain to the Writ of Capias, which had iſſued at the Suit of the ſaid Coſſinaut Baboo, and when you replied, that the ſaid Parbutty Churn Ghoſe muſt act as he thought proper, as you could not at that Time, for Reaſons which you mentioned, give him any Inſtructions for the Conduct of the ſaid Rajah Soondernarrain, What were the Reaſons you then mentioned to the ſaid Parbutty Churn Ghoſe for declining to give him ſuch Inſtructions? Were thoſe your true and only Reaſons? Or what were the true Reaſon or Reaſons for declining the ſame, according to the beſt of your Knowledge and Belief?—Did thoſe Reaſons ariſe in your own Mind, or were they ſuggeſted or dictated to you by any other Perſon or Perſons, and whom? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, together with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Sixth Interrogatory. At the Time you cautioned the ſaid Parbutty Churn Ghoſe againſt giving Bail to the Sheriff, were you employed by the ſaid Rajah Soondernarrain, or any other Perſon or Perſons, and whom by Name, on his Behalf or otherwiſe, as an Attorney or Agent of the ſaid Rajah Soondernarrain, or had you at or before that Time, and when, received any and what Orders or Directions from the ſaid Rajah Soondernarrain, or from any other Perſon or Perſons on his Behalf or otherwiſe, to interfere or give your Advice or Aſſiſtance in the ſaid Action, in the foregoing Interrogatories mentioned, in any other Action or Actions, to which the ſaid Rajah Soondernarrain was a Party Defendant; or if not employed by or on the Part of the ſaid Rajah Soondernarrain or other Perſons on his Behalf, were you employed or directed by any other Perſon or Perſons, and whom by Name, and when to give your Advice and Aſſiſtance, or in any other, and what Manner to be concerned in, or intermeddle with the ſaid Action in the foregoing Interrogatories mentioned, on the Part of the ſaid Rajah Soondernarrain, or in any other Action or Actions in which the ſaid Rajah Soondernarrain was a Party Defendant, and what Connection was there between ſuch Perſon or Perſons from whom you received your Inſtructions to be concerned in or intermeddle with the ſaid Action in the foregoing Interrogatories mentioned, and the ſaid Rajah Soondernarrain, and how, was, or were ſuch Perſon or Perſons entruſted in, or to be affected by the Event or Proſecution of the ſaid Action inſtituted, or about to be inſtituted, by the ſaid Coſſinaut Baboo againſt the ſaid Rajah Soondernarrain, and had the Perſon or Perſons ſo employing you, any, and what Authority from the ſaid Rajah Soondernarrain, and was it not more for the Intereſt of ſuch Perſon or Perſons than for the Intereſt of the ſaid Rajah Soondernarrain, or in what Capacity did you act, at the Time you cautioned the ſaid Parbutty Churn Ghoſe from giving Bail to the Sheriff, or undertook to be concerned in, or intermeddle with the ſaid Action in the foregoing Interrogatories mentioned on the Part of the ſaid Rajah Soondernarrain, or any other Action or Actions, in which the ſaid Rajah Soondernarrain was or might be a Party Defendant? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, together with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Seventh Interrogatory. At the Time you cautioned the ſaid Parbutty Churn Ghoſe againſt giving Bail to the Sheriff, did you not know that Mr. George Wroughton, one of the Attornies of this Court, had been applied to, retained, and employed by the ſaid Parbutty Churn Ghoſe, on the Part of the ſaid Rajah Soondernarrain, and that he had actually appeared for the ſaid Rajah Soondernarrain in the ſaid Action, in the foregoing Interrogatory mentioned; and if you knew it, how came you to conſider it to be your Duty to give ſuch Advice to the ſaid Parbutty Churn Ghoſe, or to give any Advice which you might think to be for the Benefit of the ſaid Rajah Soondernarrain, reſpecting the ſaid Action, ſuppoſing that another Attorney was employed therein, whether it was the Benefit of the ſaid Rajah Soondernarrain, or from any other, and from what Motives or Influence, and whether without ſuch Motives or Influence you would have given ſuch Advice, and whether you do not believe ſuch Advice was given not for the Furtherance of Juſtice, but for the Purpoſe of maintaining the Power, Intereſt, and Patronage of thoſe who gave ſuch Advice, and whether you do not think ſuch Advice was contrary to the Intention of the Act of the Thirteenth of our Sovereign George the Third, now King George the Third, now King of Great-Britain, intituled, "An "Act for eſtabliſhing certain Regulations for the better Management of the Affairs of the Eaſt-India "Company, as well in India as in Europe;" and of His ſaid Majeſty's Charter, dated the Twenty-ſixth Day of March, in the Fourteenth Year of the Reign of His ſaid Majeſty: And whether you do not know and believe, that notwithſtanding any Advice that might have been given to any ſuch Perſon or Perſons from whom you received your Inſtructions, that ſuch Advice was contrary to your own Judgment; and whether you do not know and believe, that if any ſuch Advice was given to ſuch Perſon or Perſons, the ſame was given knowingly contrary to their better Judgment, and uſed as a Pretext or Screen merely to ſhelter himſelf or themſelves from legal Conſequences; and whether or no you did not tell the ſaid Adviſer, that it was contrary to your own Opinion; and if not, why not? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Eighth Interrogatory.—What was or were the, Reaſon or Reaſons which induced you to conceive that it was by no Means the Wiſh or Intention of the ſaid Rajah Soondernarrain to appear to the ſaid Action? Did thoſe Reaſons ariſe in your own Mind, or were they, or any, or either, and which of them, ſuggeſted to you by any other Perſon or Perſons, and whom by Name? Declare all you know, have heard, and believe reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Ninth Interrogatory.—Did any Perſon or Perſons, and who by Name, at any Time or Times, and when for the Firſt Time, and at each and every of the other Time or Times, adviſe you, that the ſaid Rajah Soondernarrain was in no wiſe ſubject to the Juriſdiction of this Court, or bound to obey its Proceſs, and was ſuch Advice communicated to you at one or more Time or Times, by word of Mouth, or in Writing; and if by word of Mouth, relate fully and particularly the Words, as nearly as you can recollect the ſame; or if you cannot recollect the Words thereof, then the whole Subſtance of ſuch Advice, and the ſeveral Converſations which have been had between you and the Perſon or Perſons giving ſuch Advice, at the Time or Times of giving ſuch Advice, or at any Time or Times previous or ſubſequent thereto; or if ſuch Advice was communicated to you in or committed to Writing, by whom by Name was the ſaid Advice wrote or ſigned? And have you now, or have you at any Time or Times, and when, had the Original or a Copy thereof in your Poſſeſſion or Procurement; and if ſo, what is become thereof; and when did you laſt ſee the ſame; or if the ſame be in your Poſſeſſion, ſet forth a true and exact Copy thereof in your Anſwers to this Interrogatory, and produce the Original, if the Original be in your Poſſeſſion or Procurement; and ſet forth and ſay upon what Facts, Circumſtances, and Materials was ſuch Advice given or founded; and if the Facts ſo ſtated were in Writing, and if not, why not, to you; or do you not know or believe that it is the Cuſtom of Counſel to give their Opinion without Facts in writing; and whether the ſaid Advice was given in conſequence of Facts ſtated in Writing, and pretended to be the legal Conſequences ariſing from the Facts, or what in Policy the Advice or Thoughts ought to be: And has ſuch Adviſer been reſident in this Country a ſufficient Time to be converſant with the Manners, Cuſtoms, and Politics of the ſame; and whether you do not believe that the Perſon or Perſons ſo adviſing, did not know and believe the ſaid Advice to be contrary to Law? Do you, or do you not believe that the ſaid Rajah Soondernarrain was, at the Time you gave your Advice and Aſſiſtance to the ſaid Parbutty Churn Ghoſe, on Behalf of the ſaid Rajah Soondernarrain, ſubject to the Juriſdiction of this Court, or bound to obey the Proceſs thereof: And upon what Grounds, Reaſons, and Circumſtances do you form your Belief thereof? Did you or did you not at the Time you gave ſuch Advice or Aſſiſtance to the ſaid Parbutty Churn Ghoſe, on behalf of the ſaid Soondernarrain, know or believe that this Court was inveſted with Powers competent and ſufficient to try and determine whether the ſaid Rajah Soondernarrain was, or was not ſubject to the Juriſdiction of this Court; and that no ſuch Power was veſted in any other Perſon or Perſons, or any other Body or Bodies of Men, or in any other Court or Courts whatſoever, within the Provinces of Bengal, Bahar and Oriſſa, or any other or either of them? And if you believed that any other Perſon or Perſons, or Body or Bodies of Men, or any other Court or Courts within the ſaid Provinces, or any or either of them, was or were inveſted with Powers to try and determine whether or not the ſaid Rajah Soondernarrain was ſubjected to the Juriſdiction of this Court; then ſet forth what Perſon or Perſons, Body or Bodies of Men, Court or Courts you believe is, or are inveſted with ſuch Power, and by virtue of what Authority, together with the ſeveral Grounds, Reaſons, and Circumſtances which induced your Belief. Declare all you know, have heard, and believe reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Tenth Interrogatory.—When for the firſt Time did you hear from the ſaid Parbutty Churn Ghoſe, or any other Perſon or Perſons, and whom by Name, that an Appearance had been entered for the ſaid Rajah Soondernarrain in the ſaid Action commenced againſt him by the ſaid Coſſinaut Baboo, in the foregoing Interrogatories mentioned; and why, and for what Reaſon did you ſend for the ſaid Parbutty Churn Ghoſe; had you any Authority or Direction from the ſaid Soondernarrain, or any other Perſon or Perſons, and who by Name, on his Behalf ſo to do; or from whom did you derive your Authority to ſend for the ſaid Parbutty Churn Ghoſe, and queſtion him reſpecting the ſame; or in what Capacity did you act, whether as Attorney of the ſaid Rajah Soondernarrain, or as Attorney of the ſaid United Company, or of your own mere Motion, when you ſent for the ſame Parbutty Churn Ghoſe, and queſtioned him reſpecting ſuch Appearance; and why did you expreſs any Diſpleaſure againſt the ſaid Parbutty Churn Ghoſe, or conceive that he had acted without Authority, and inconſiſtent with the Intereſt of his Conſtituent, the ſaid Rajah Soondernarrain; and did you not believe that the ſaid Parbutty Churn Ghoſe had an Authority from the ſaid Rajah Soondernarrain, and if not, why not; and were you in any and what Manner intereſted in the ſaid Action, or the Event thereof? And was or were the ſaid Governor and Council collectively, or any or either, and which of the Members thereof, individually intereſted in the Payment of the juſt Debts of the ſaid Rajah Soondernarrain, or in the Recovery thereof in this Honourable Court, or in any other Court, or whether any other Perſon or Perſons, and who by Name, are intereſted in the Profit, Influence, Power, or Authority in the ſame? What was the Reaſon or Reaſons which induced you to believe that the ſaid Parbutty Churn Ghoſe had acted without Authority from the ſaid Rajah Soondernarrain; and why, and for what Reaſon, and by what Authority, and by whoſe Directions, did you addreſs the Letter to the Collector of Midnapore, mentioned in your Affidavit in the the foregoing Interrogatories ſpoke of; and what was the Name of that Collector? And whether you did not receive ſome, and what Directions or Inſtructions from the Governor General and Council collectively, or ſome or one, and which of them or the Members thereof individually, to write the ſaid Letter; and whether theſe Inſtructions or Directions were given in Writing, or verbally; if verbally, then ſet forth the Words thereof, and if you cannot ſet forth the Words, then ſet forth the Subſtance thereof as nearly as you can recollect; and if the ſaid Directions and Inſtructions were committed to Writing, then ſet forth an exact and true Copy thereof, or the Subſtance thereof, to the beſt of your Recollection and Belief, in your Anſwer to this Interrogatory; and alſo ſet forth by whom the ſame was wrote? Why did you write to the Collector of Midnapore, and not to the ſaid Rajah Soondernarrain himſelf? When did you receive an Anſwer to the ſaid Letter, and from whom did any further or other Letter or Letters paſs between you and the ſaid Collector of Midnapore, or any other Perſon or Perſons, and whom by Name, relative to the ſaid Action, or any other Action or Actions inſtituted, or about to be inſtituted againſt the ſaid Rajah Soondernarrain? Set forth a true and exact Copy of the Letter addreſſed by you to the ſaid Collector of Midnapore, and his Anſwer thereto; together with the whole of the Letter or Correſpondence which have at any Time paſſed between you and the ſaid Collector of Midnapore, or any other Perſon or Perſons, reſpecting the ſaid Action, or any other Action or Actions inſtituted or about to be inſtituted againſt the ſaid Rajah Soondernarrain. Declare all you know, have heard, and believe, reſpecting the ſeveral Matters enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Eleventh Interrogatory. Why did you ſend for the ſaid Parbutty Churn Ghoſe, and ſeverely rebuke him, and caution him not to do any Act reſpecting the ſaid Action, without your Knowledge and Aſſent, as ſtated in your Affidavit? And why did you deſire the ſaid Parbutty Churn Ghoſe to conform to your Directions, or elſe that you would get him diſmiſſed from his Employment? What Right or Authority had you to give your Directions or Advice therein, or to cenſure or reprove the ſaid Parbutty Churn Ghoſe for what he had done? From whence and in what Manner did you derive that Right or Authority, or whether by Writing or verbally? If verbally, ſet forth the Words in which ſuch Right or Authority was given to you, if you can recollect the ſame, or if not, then ſet forth the Subſtance thereof; or if the ſame Right or Authority was given to you in Writing, then ſet forth a Copy of the Paper or Inſtructions by which that Right or Authority was given to you. And in what Capacity did you act when you undertook to rebuke, threaten, and command the ſaid Parbutty Churn Ghoſe, as ſet forth in your ſaid Affidavit, whether as Attorney of the ſaid Rajah Soondernarrain, or as Attorney to the ſaid United Company, or of your own mere Motion; or in what other Capacity did you act? And did you at any and what other Time or Times, give Directions to the ſaid Parbutty Churn Ghoſe, or to any other Perſon or Perſons, and whom by Name, on the Part and Behalf of the ſaid Rajah Soondernarrain, reſpecting the ſaid Action inſtituted againſt the ſaid Rajah Soondernarrain, at the Suit of the ſaid Coſſinaut Baboo, or in any other Action or Actions commenced or about to be commenced againſt the ſaid Rajah Soondernarrain, and if ſo, ſet forth and declare what thoſe Directions were, and from whence did you derive your Authority to give the ſaid Directions? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Twelfth Interrogatory. For what Purpoſe, and with what Intent, did you make Enquiries at the Sheriff's Office, as ſworn to by William Lewin in his Affidavit, filed the Eighteenth Day of January laſt; was mere Curioſity your Motive for making ſuch Enquiry, or what elſe was or were your Motive or Motives? Who directed or inſtructed you to make ſuch Search or Enquiries, and were ſuch Inſtructions or Directions given verbally, or by any Authority in Writing? if verbally, then ſet forth the Words in which ſuch Directions or Inſtructions were given, to the beſt of your Recollection, or if not, the Subſtance thereof; and if the ſaid Directions or Inſtructions were given to you in Writing, then ſet forth a Copy thereof in your Anſwer to this Interrogatory; or if the ſame are not in your Poſſeſſion, then ſet forth in whoſe Poſſeſſion they are, and the Subſtance thereof, according to the beſt of your Recollection, and when, where, and in whoſe Cuſtody you laſt ſaw them? Did you conſult or communicate with any Perſon or Perſons, and whom by Name, previous to your making ſuch Search or Enquiry, reſpecting ſuch Search or Enquiry to be made, and what was the Reſult of ſuch Conſultation? Did you communicate the Reſult of ſuch Search and Enquiry to any Perſon or Perſons, and whom by Name, and whether by Word of Mouth or in Writing? and if in Writing, then ſet forth a Copy of ſuch Paper in which you communicated to ſuch Perſon or Perſons the Reſult of ſuch Search or Enquiry. And did you, or did you not, communicate the ſame, for the Purpoſe of informing ſuch Perſon or Perſons what Force would be neceſſary to ſend to oppoſe, obſtruct, or impede the Execution of the Writ of Sequeſtration, iſſued in the ſaid Action, in the foregoing Interrogatories mentioned, or for any other, and what Purpoſe. Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Thirteenth Interrogatory. When and from whom did you firſt hear that a Writ of Sequeſtration had iſſued out of this Honourable Court, againſt the Effects of the ſaid Rajah Soondernarrain, at the Suit of the ſaid Coſſinaut Baboo; and did you, or did you not, at any and what Time, and by any and what Method, convey to the ſaid Rajah Soondernarrain, or any Perſon or Perſons on his Behalf, and if ſo, for what Purpoſe and with what View or Intent, Notice or Intelligence thereof; and did you, or did you not, give the ſaid Rajah Soondernarrain, or the ſaid Parbutty Churn Ghoſe, or any other Perſon or Perſons, and whom, on Behalf of the ſaid Rajah Soondernarrain, any, and what Advice, Directions, Inſtructions, or Aſſiſtance, reſpecting the ſaid Writ of Sequeſtration, or the Reſiſtance thereof; and was you directed by any Perſon or Perſons, and whom by Name, to give and tranſmit to the ſaid Rajah Soondernarrain, or any other Perſon or Perſons, and whom by Name, ſuch Notice, Intelligence, Advice, Inſtructions, or Aſſiſtance, reſpecting the ſaid Writ of Sequeſtration, or the Reſiſtance thereof; or had you at any, and what Time or Times, and when, any Meeting or Meetings, Communication or Communications, or Converſation or Converſations, with any Perſon or Perſons, and whom by Name, reſpecting the ſaid Writ of Sequeſtration, and the reſiſting thereof? If ſo, ſet forth where, and at what Time or Times, and with whom, ſuch Meetings, Communications, or Converſations were had or paſſed, and the Subſtance thereof, according to the beſt of your Recollection. Whether, at the Time you held ſuch Meetings, or had ſuch Communications or Converſations, you were employed by the ſaid Rajah Soondernarrain, to conduct his Buſineſs in the ſaid Action commenced againſt him by the ſaid Coſſinaut Baboo, or any other Action or Actions, or whether you were employed by any other Perſon or Perſons, and whom by Name, on Behalf of the ſaid Rajah Soondernarrain, to conduct the ſame, or any other, and what, Action commenced againſt the ſaid Rajah Soondernarrain, or what Right or Authority had you to meet or communicate about the Buſineſs of the ſaid Rajah Soondernarrain, or the Execution of or Reſiſtance of the ſaid Writ of Sequeſtration? Do you know, or have your heard, and from whom, and at what Time or Times, whether any Orders, Inſtructions, or Directions, have at any, and what, Time or Times, been given by the Governor General and Council of this Preſidency, collectively, or any and which of the Members thereof individually, any and what Perſon or Perſons, and whom by Name, to obſtruct or impede the Execution of the ſaid Writ of Sequeſtration, or any other, and what Proceſs of this Honourable Court, or anywiſe to interfere in the Execution thereof; and were theſe Orders, Inſtructions, Directions, or any other, and which of them, given in Writing? if ſo, have you the Original, or a Copy thereof, in your Poſſeſſion or Procurement? if yea, ſet forth a true and exact Copy thereof, in your Anſwer to this Interrogatory; and if by Word of Mouth, then ſet forth the Subſtance thereof. Do you know by whoſe Advice the ſaid Orders, Inſtructions, or Directions, or any or either, and which of them, were given by the ſaid Governor General and Council collectively, or the ſeveral Members thereof, or any or which of them individually? and was ſuch Advice committed to Writing, or given to them verbally? if verbally, then ſet forth the Words, or Subſtance thereof, according to the beſt of your Recollection; or if the ſame was committed to Writing, then ſet forth in whoſe Poſſeſſion the ſame now is? have you the Original, or a Copy thereof, in your Poſſeſſion or Procurement? if yea, ſet forth a true and exact Copy thereof in your Anſwer to this Interrogatory, when and in whoſe Poſſeſſion did you laſt ſee the ſame. Do you believe, that if ſuch Advice had not been given, the ſaid Orders, Inſtructions, and Directions, would have been made or ſent? Do you know, or have you at any, and what Time heard, or can you ſay upon what Grounds, Reaſons, or Principles, the ſaid Governor General and Council collectively, or the ſeveral Members thereof individually, determined when they gave the ſaid Orders, Inſtructions, or Directions, and if yea, ſet forth the ſeveral Grounds, Reaſons, or Principles, which determined them ſo to do? Do you know or have you heard, whether, in conſequence of thoſe Orders, Inſtructions, or Directions, any and what armed Force or Sepoys, and under whoſe Command, were employed or uſed to reſiſt or impede the Execution of the ſaid Writ of Sequeſtration, or other the Proceſs of the Honourable Court? Did the ſaid armed Force or Sepoys make any and what Reſiſtance, or otherwiſe impede the Execution of the ſaid Writ, and what was the Effect thereof? Did any and what Perſon or Perſons, and who by Name, having the Command over the ſaid armed Force or Sepoys, ever tranſmit to you, or to the ſaid Governor General and Council collectively, or any or either, and which of the Members thereof individually, or to any other Perſon or Perſons, and whom for them, any Accounts or Advices of the Manner in which the Execution of the ſaid Writ of Sequeſtration, or other Proceſs of this Honourable Court, had been reſiſted or impeded, or any other Matters or Thing relating thereto? if ſo, and the ſaid Accounts and Advices, or a Copy thereof, be in your Poſſeſſion or Procurement then ſet forth the ſame, or a true and exact Copy thereof in your Anſwer to this Interrogatory; and if not in your Poſſeſſion, ſet forth the true Subſtance thereof to the beſt of your Recollection; and ſay when, where, and in whoſe Cuſtody you laſt ſaw the ſame. Declare all you know, have heard, and believed, reſpecting the ſeveral Matters and Things in this Interrogatory enquired after, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Fourteenth Interrogatory. At the Time the Orders, Directions, or Inſtructions, in the preceding Interrogatory mentioned, were ſent by the ſaid Governor General and Council collectively, or ſome or one of the Members thereof individually, if any ſuch Orders, Directions, or Inſtructions were given? Did you or did you not know, or had you or had you not heard, and did you not believe, that the Cauſe of Action upon which the ſaid Action in the foregoing Interrogatories mentioned, and brought againſt the ſaid Rajah Soondernarrain, at the Suit of the ſaid Coſſinaut Baboo, aroſe upon ſome Note or Notes, or Inſtrument or Inſtruments in Writing, in the Perſian, Bengal, or ſome other, and what Language, made or given by the ſaid Rajah Soondernarrain, within the Town of Calcutta, or the Factory of Fort William, or the Limits thereof? And did you or did you not, ſoon, and how long, after the Commencement of the ſaid Action, ſend for the ſaid Coſſinaut Baboo, or cauſe him to be ſent for, for the Purpoſe of ſeeing or inſpecting the ſaid Note or Notes, Inſtrument or Inſtruments in Writing, or for any other or what Purpoſe, and whether in conſequence thereof, the ſaid Note or Notes, or Inſtrument or Inſtruments in Writing, or one, and which, of them, or a Copy thereof, or of one and which of them was or were not produced, and ſhewn or delivered to you by the ſaid Coſſinaut Baboo, or any other Perſon or Perſons, and who by Name on his Behalf? And did or did not the ſaid Note or Notes, Inſtrument or Inſtruments in Writing, or one and which of them, upon the Face thereof purport or appear to have been made or given in Calcutta, and were not the Contents thereof explained to you by ſome Perſon, and whom? Was or was not the ſaid Rajah Soondernarrain, at the Time of commencing the ſaid Action, or at any other, and what Time employed, by or in the Service of the ſaid United Company, in the Collection of the Revenue or otherwiſe, and inveſted with any and what Powers and Authorities from the ſaid Governor General and Council collectively or individually, or by ſome other and what Britiſh Subject; and were or were not the ſaid Orders, Inſtructions, or Directions, given by the ſaid Governor General and Council, collectively or individually, if any were given at all, before or after the Delivery or Production of the ſaid Note or Notes, or the Copies thereof? And did you or did you not communicate the Contents of the ſaid Note or Notes, to the ſaid Governor General and Council collectively, or to ſome or one, and which of the Members thereof, individually, previous to the Time of giving the ſaid Orders, Inſtructions, or Directions, or to ſuch Perſon or Perſons by whoſe Advice the ſaid Orders, Inſtructions, or Directions were given, previous to his giving his Advice, or at any and what Time afterwards, and if not, why did you not? By whoſe Deſire or Directions did you ſend for the ſaid Coſſinaut Baboo as above interrogated, unto and in what Capacity did you act, whether as Attorney of the ſaid Rajah Soondernarrain, or of the ſaid United Company, or of your own mere Motion, when you deſired to ſee or inſpect the ſaid Note or Notes? Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

Fifteenth Interrogatory. Do you know, or have you heard, and do you believe, that any Paper or Papers in the Perſian Language, called a Perwannah or Perwannahs, or any other Paper or Papers, in any other, and what Language, and called by any other and what Name or Names, or Deſcriptions, have at any, and what Time or Times been iſſued, ſent, or diſperſed throughout the Provinces of Bengal, Bahar, and Oriſſa, or any or either of them, by or by the Order of the ſaid Governor General and Council collectively, or any or either, and which of the Members thereof, individually, for the Purpoſe of defining the Juriſdiction of this Court, and cautioning certain Perſons under certain Deſcriptions, againſt appearing, or otherwiſe paying Obedience to the Proceſs of this Honourable Court, or doing any Act or Acts to ſubject themſelves to the Juriſdiction thereof? if yea, and if a Draught, Copy, or Tranſlate of ſuch Paper or Papers, be in your Poſſeſſion or Procurement, produce the ſame, or if the ſame be not in your Poſſeſſion or Procurement, declare in whoſe Poſſeſſion or Procurement the ſame now is, and when and where you laſt ſaw the ſame. By whoſe Advice or Direction was the ſaid Paper or Papers drawn, ſent, or diſperſed, together with the Reaſons, Principles, and Occaſion upon which the ſaid Advice was given in Writing, and if the ſame, or a Copy thereof, be now in your Poſſeſſion or Procurement, then ſet forth the ſame in your Anſwer to this Interrogatory, or produce a true Copy thereof, and if the ſame be not in your Poſſeſſion or Procurement, then ſet forth in whoſe Poſſeſſion or Procurement the ſame now is or may be found, and when and where you laſt ſaw the ſame, together with the true Subſtance or ſhort Contents thereof, according to the beſt of your Recollection. Declare all you have heard and believe reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſon of ſuch your Knowledge and Belief, fully and at large.

Sixteenth Interrogatory. Do you or do you not know, or have you not heard, and do you not believe, that all or ſome, and which, of the Sheriff's Officers, employed or concerned in the Execution of the Writ of Sequeſtration in the foregoing Interrogatories mentioned, or other the Proceſs of this Honourable Court, were by Force removed and prevented from executing the ſaid Writ of Sequeſtration, and ſent from Coſſijurah in a Boat, or by ſome other and what Conveyance, and conducted back to Calcutta under a Guard of Sepoys, or other armed Men in the Service of the ſaid United Company, and acting by and under the Orders and Directions of the ſaid Governor General and Council collectively, or ſome or one, and which, of the Members thereof individually, or by whoſe Orders or Directions were they ſo acting, if ſo they did? And do you know, and can you ſet forth when and where, and by whoſe Orders the ſaid Sheriffs Officers, or ſome or one, and which of them were ſet at Liberty? if you do, and that the ſaid Orders and Directions were given in Writing, and if a Copy thereof be in your Poſſeſſion or Procurement, then produce the ſame in your Anſwer to this Interrogatory, or if the ſame be not in Writing, or that you have not a Copy thereof, then ſet forth the Contents thereof according to the beſt of your Recollection, and ſay likewiſe by whoſe Advice ſuch Orders reſpecting the Releaſe of the ſaid Officers were given, and all the ſeveral Materials, Facts, and Circumſtances, upon which that Advice was founded, if ſuch Advice was given in Writing, and that if you have the ſame or a Copy thereof in your Poſſeſſion or Procurement, then produce the ſame, or ſet forth a true and faithful Copy thereof, in your Anſwer to this Interrogatory, or ſet forth in whoſe Poſſeſſion or Procurement the ſame now is, and when and where you laſt ſaw the ſame, or if the ſame be not committed to Writing, ſet it forth, or the Subſtance thereof, according to the beſt of your Recollection. Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſon of ſuch your Knowledge and Belief, fully and at large.

Seventeenth Interrogatory. Do you know, or have you been informed by any Perſon or Perſons, and who by Name, that any and what Order or Orders hath or have at any Time or Times, and when, been given or iſſued by or by the Direction of the Governor General and Council at Fort William collectively, or any or either, and which, of the Members thereof individually, to any Perſon or Perſons, and who by Name, to ſecrete Lieutenant Stephen Bomford at Midnapore, in the Province of Bengal, or at any other Place or Places, and where, in order to prevent any Rule, Order, or Proceſs of this Court, being ſerved or iſſued upon him, or to refuſe Admittance to any of the Officers or Servants, of the Sheriff of the Town of Calcutta, or to any other Perſon or Perſons, and who within the Camp or Factory of Midnapore, or to prevent by any, and what, Means ſuch Officers or Servants, or other Perſon or Perſons, from ſerving or executing any ſuch Rule or Proceſs of this Court upon the ſaid Stephen Bomford, or with any other or what View or Intent? and if yea, ſet forth when you firſt heard that any ſuch Order or Orders was or were given or iſſued; and if the ſame, or a Copy thereof, be in your Poſſeſſion or Procurement, produce the ſame, and ſet forth a true and exact Copy thereof in your Anſwer to this Interrogatory; and if not in your Poſſeſſion or Procurement, ſet forth the Contents thereof as nearly as you can recollect; and ſet forth and declare in whoſe Poſſeſſion the ſame is, and where and in whoſe Poſſeſſion you laſt ſaw the ſame: And the whole of the Matter enquired of by this Interrogatory, fully and at large declare.

Eighteenth Interrogatory. Have you ſeen Lieutenant Stephen Bomford, in the preceding Interrogatory mentioned, at any Time or Times, and when, ſince the Third Day of December now laſt paſt? If yea, at what Place or Places, and what was the Occaſion of your meeting him. Have you given any and what Advice to the ſaid Stephen Bomford, either directly or indirectly, to abſcond, or in any other, and what, Manner to avoid being ſerved with any and what Rule, Order, or Proceſs of this Court? If yea, why and by whoſe Orders, Directions, or Inſtructions did you ſo adviſe him? Did you at any Time or Times, and when, hear from any Perſon or Perſons, and who by Name, that any Perſon or Perſons, and who by Name, did give any and what Advice to the ſaid Stephen Bomford to abſcond, or in any other and what Manner to avoid being ſerved with any and what Rule, Order, or Proceſs of this Court? If yea, what were the Reaſons, Cauſes, or Motives, that induced ſuch Perſon or Perſons to give ſuch Advice, as you know or believe, or have heard from any Perſon or Perſons, and whom? And do you know, or have you been informed at any Time or Times, and when, by any Perſon or Perſons, and whom by Name, that it is the Intention of the Governor General, or of the Governor General and Council collectively, or any or either, and which of the Members thereof individually, to ſend or remove the ſaid Stephen Bomford, or cauſe him to be ſent or removed, to any, and what Place or Places, out of the Provinces of Bengal, Bahar, and Oriſſa, in order to prevent any Rule or Order, or Proceſs of this Court being ſerved upon him, or of any other and what Purpoſe? The whole of the Matters enquired into by this Interrogatory, fully and at large declare.

Nineteenth Interrogatory. Has Lieutenant Bomford, in the preceding Interrogatories mentioned, been in Calcutta at any Time or Times, and when, ſince the Third Day of December now laſt paſt? if yea, hath or have any and what Converſation or Converſations or Correſpondence by Letter or otherwiſe, and how paſſed between you and the ſaid Stephen [illegible], at which Time or Times, and in what Houſe or Houſes, or particular Place or Places? The whole enquired of by this Interrogatory, fully, circumſtantially, and at large declare.

Twentieth Interrogatory. Do you know, or have you heard, or been otherwiſe, and how, informed, that the Governor General and Council collectively, or any or either, and which of the Members thereof individually, have come to any, and what Reſolution of oppoſing, impeding or obſtructing, in any Manner whatſoever, and how, and in any and what Caſe or Caſes, the Execution of the Proceſs of this Honourable Court? if yea, ſet forth fully and particularly when the ſaid Governor General and Council collectively, or any or either, and which of the Members thereof individually, for the firſt Time, came to ſuch Reſolution, and upon what Occaſion, and by whoſe Advice they or either, and which of them, formed the ſame, and what Alteration or Alterations have ſuch Reſolution ſince the firſt forming thereof undergone? if ſuch Reſolution was committed to Writing, and you have a Copy thereof in your Poſſeſſion or Procurement, produce the ſame with your Anſwer to this Interrogatory; if not, ſet forth the true Subſtance and Contents thereof, according to the beſt of your Recollection, and when, where, and in whoſe Poſſeſſion by Name, you laſt ſaw the original Reſolution. Declare all you know, have heard, and believe, reſpecting the ſeveral Matters and Things enquired after in this Interrogatory, with the Cauſes and Reaſons of ſuch your Knowledge and Belief, fully and at large.

(Signed) Ralph Uvedale,
Attorney.

(Signed) Wm Johnſon,
Clerk of the Crown.

Board's Minutes on Mr. Naylor's Letter.

Mr. Naylor having deſired to be informed, whether it is the Pleaſure of the Board that he ſhall anſwer the Interrogatories, having previouſly excepted to the ſeveral Parts of them upon this Queſtion; The Board are of Opinion, that adverting to no other Conſideration than that of the Queſtion itſelf, it would be their Duty to forbid his anſwering to them, and that without their Conſent he could not anſwer them without a Breach of his Duty, and the Confidence they have placed in him as their official Servant: That the Interrogatories themſelves, whatever legal Power the Judges may poſſeſs to compel him to anſwer them, are contrary to the wiſe, juſt, and benevolent Spirit, which is univerſally underſtood to be inherent in the Law of England; that they tend directly to ſubvert the Conſtitution, and to deſtroy all the Powers of this Government, and to diſſolve every Bond of Society, by extorting from a confidential Officer of the Government, the Diſcloſure of all the Secrets which have been entruſted by the former, and Accuſations of others charged by it with ſimilar Truſts and acting under its Authority, and by compelling him to reveal all the Sentiments and unguarded Language of private Converſation, and even his Belief of the ſecret Thoughts of others, and thoſe expreſſed in Terms to be contrary to their poſitive Declarations; that by this, Shews of Torture, of which the Members of this Board have never before heard any Inſtances but in the Courts of Inquiſition, the moſt innocent and beſt diſpoſed Member of Society may be forced to prefer criminal Charges againſt his Neighbours, and they put to the ſame Queſtion to criminate others, till every Member of Community is involved in its immediate Effects, or ſubjected to the Terrors of them; that for theſe Reaſons are their invincible Beliefs, that the Engliſh Law can neither authorize or countenance ſo oppreſſive and dangerous a Practice: The Board are of Opinion, that Mr. Naylor ought not to anſwer to the Interrogatories. But on the Conſideration of the Caſe, as it perſonally reſpects himſelf, the Board find themſelves reſtrained by the Fear of the Conſequences from forming their Reſolution on this Opinion, ſince it would furniſh the Judges of the Courts with a Pretext for lengthening his Impriſonment, either until he ſubmitted, or to the Period of Two Years, ſuggeſted by the Chief Juſtice from the Bench, as a Term to which it might be lengthened by a late Precedent in England: That ſuch a Length of Confinement, or even a Durance of Two Months in this unwholeſome Climate, and in the foul Air of Calcutta Jail, would be equal to a direct Sentence of Death: That it is in the Knowledge of every Member of this Board, that Mr. Naylor at this Time labours under an infirm Conſtitution; that his Mind and Body have both, for ſome Months, languiſhed under the Weight of a domeſtic Affliction, the laſt Stroke of which has but recently fallen upon him; that the hot Seaſon is now approaching, and will ſhortly be followed by that of the Rains; and that it is the firm Belief of this Board, that Mr. Naylor in his preſent State, and oppreſſed by the accumulated Rigors of the Court, will be unable to undergo a much longer Impriſonment; that they are therefore deſirous of contributing every Thing which lies within the ſcanty Compaſs of their Means to promote his Releaſe from it; and do therefore, to prevent his becoming the Victim of their Rights, conſent, and direct, that he do anſwer to the Interrogatories, having firſt entered his Exceptions againſt ſuch Parts of them, as he ſhall judge it improper in him to reveal, or illegal in the Court to put to him. At the ſame Time that the Board adopt this moderate Expedient, they think it proper to add, that they have very little Hope that it will avail them, if the Report which has been made to them be

true,

ment; and they have Reaſon to believe it to be ſo, That the ſtrict Order for the Impriſonment of Mr. Naylor was intended as a Puniſhment, and expreſſed as an exemplary Puniſhment, though inflicted before his Conviction; yet they are willing to make this Trial, and direct the Secretary to give him Information accordingly.

The Secretary lays before the Board the following Letter, from Meſſieurs Tolfrey and Naylor, with the Bill of Plaint filed by Coſſinaut Baboo, againſt the Governor General and Council, accompanying it.

To George Hodgſon, Eſq; Secretary, &c.

Sir,

We have the Pleaſure of encloſing the Copy of the Plaint filed by Coſſinaut Baboo againſt the Governor General and Council. In conſequence of the Inſtructions you communicated to us, we have appeared to the Suit; but the Advocate General, with the Concurrence of the other Advocates engaged in the Cauſe, not deeming it adviſeable to plead to the Juriſdiction of the Court in the Manner mentioned in your Letter, we beg to be favoured with the Orders of the Honourable Board for our Guidance in the Defence of the Actions. We will requeſt you to take the earlieſt Occaſion of ſubmitting the Plaint to their Peruſal, as the Time limited for pleading will expire the 10th Inſtant.

March 8th 1780.

We are, &c.

(Signed) { North Naylor.
Samuel Tolfrey.

COSSIJURAH APPENDIX, Nº 24.

Board's Reſolutions and Declarations to the Supreme Court.

RESOLVED, That the Company's Standing Counſel be authorized and inſtructed to make the following Declaration orally in open Court, on Behalf of the Governor General and Council.

That when a Summons was ſeverally ſerved on the Governor General and other Members of the Supreme Council, at the Suit of Coſſinaut Baboo, they did believe, as well from the Name of the Plaintiff as from other Circumſtances, that the Action mentioned therein was brought againſt all or each of them, for certain public Acts done by the Governor General and Council in their corporate Capacity, as veſted with the civil and military Government of the Preſidency, and with the Ordering, Management, and Government of all the Territoral Acquiſitions and Revenues in the Kingdoms of Bengal, Bahar, and Oriſſa.

That nevertheleſs, as the Cauſe or Ground of ſuch Action was not expreſſed on the Face of the Summons, and might, on bare Poſſibility, have relation to Queſtions of a private and perſonal Nature, they had directed their Attorney to enter an Appearance for each of them reſpectively; that their Attorney having now been furniſhed with a Copy of the Plaint, they find that their firſt Idea of the Meaning and Intention thereof was well founded.

That the Governor General and Council deny that their corporate Acts, as the Government of this Preſidency, or done in the Execution of the Powers veſted in them by Parliament, are cognizable in the Supreme Court of Judicature, or that they are anſwerable as Individuals in this Court for the Conſequences of ſuch Acts.

That they have therefore directed their Attorney to withdraw the Appearance which he had entered for them to the Action brought againſt them by Coſſinaut Baboo, and hereby declare, that they will not appear, or anſwer, or defend the ſaid Action, in any Manner, directly or indirectly.

They further declare, that they will not ſubmit to any Rule, Proceſs, Judgment, or other Act whatſoever of the Supreme Court in this Action, or in any other Action of the ſame Nature, by which it may be attempted to make them anſwerable in this Court as Individuals, for the corporate Acts of the Governor General and Council, not cognizable by the Supreme Court.

That for the Sake of the Peace, good Order, and Tranquillity of this Settlement, whoſe Proſperity, if not Exiſtence, may at this Time more eſſentially than at any other, depend on the Strength and Vigour of Government, and on the Union of the ſeveral Magiſtrates and Officers to whom the Care and Preſervation of this great Dominion have been intruſted, the Governor General and Council moſt earneſtly deſire that the Chief Juſtice and Judges of the Supreme Court will reflect on the dreadful Conſequences which may follow from a forcible Attempt to execute the Proceſs or Judgment of this Court on the Perſons or Property of the Governor General and Council, ſuppoſing ſuch Attempt ſhould be reſiſted; or into what Contempt and Degradation the Government of theſe Provinces will be reduced in the Eyes of that Multitude, for whoſe Obedience to us, and for whoſe Acquieſcence in the Authority of a few Europeans over them, our beſt Security perhaps is founded in Opinion, if the Judgment of the Court, eſpecially at the Suit of a Native, ſhould be executed on the Perſons or Property of the Governor General and Council.

That ſuppoſing our preſent Claims to the Exemption we contend for, ſhould appear to the Court not to be founded in ſtrict legal Right, ſtill the Governor General and Council think themſelves entitled to expect from the Prudence and Moderation of the Judges, and from the Intereſt they hold in the general Welfare and Security of the Britiſh Empire in India, that they will not permit ſuch a Queſtion to be agitated here; but that they will agree to ſuſpend all Proceedings whatſoever that may have relation to it, and ſuffer the general Queſtion to be referred Home, as the Governor General and Council are deſirous it ſhould be, to the Determination of a higher Juriſdiction, or until the Senſe of the Legiſlature can be taken upon it, and the Governor General and Council declare themſelves ready to accede to any Mode which the Judges may think fit to propoſe, whether for the immediate Accommodation of the preſent unfortunate Difference, or for a Reference of it to Parliament, provided that in the mean Time all Proceedings in this Matter be ſuſpended in the Supreme Court.

The Governor General and Council further repreſent to the Judges, and moſt earneſtly requeſt of them to conſider, the alarming and moſt dangerous Circumſtances in which the Britiſh Empire, and all its Dependencies are placed at this Moment.—That His Majeſty's Government is actually engaged in an Attempt to overcome the Rebellion of America, of the Succeſs of which no favourable Expectation can at preſent be formed; and that an open War with France and Spain actually threatens Great Britain with immediate Dangers, which may not permit her to look Abroad to the Defence and Protection of a Dominion ſo diſtant from the Seat of Empire, as that over which this Government is placed.—That here in India, excluſive of whatever may be apprehended from the Deſigns of an European Enemy, they are now engaged in a hazardous and expenſive War, with perhaps the firſt and moſt powerful of the States of this Country, in which it is but too probable, that the univerſal Jealouſy entertained of the Britiſh Influence in India, may induce many others to take Part againſt us.

That to ſupport this War, and to meet every Exigence, not only of this Government, but of the Preſidencies of Fort St. George and Bombay, as well as to return a Tribute to Great Britain, which never was more neceſſary than at the preſent Period, they have no Reſource but in the due and regular Collection of the Revenues of theſe Provinces.

That if the Zemindars and other Landholders thereof, by any pretended Law, or Conſtruction of Law, which they are well aſſured was never meant to extend to them, ſhould be withdrawn from the excluſive Juriſdiction of the Governor General, and made amenable to that of the Supreme Court, and ſtill more, if they ſhould be placed between diſtinct and claſhing Juriſdictions; it will not be poſſible for the Governor General and Council to inſure the Collections of the Revenues, but if any conſiderable Failure ſhould take Place therein, they truſt that the Judges in their Wiſdom will conſider, before it be too late, the fatal Conſequences that muſt follow.

That if the other Services of the State could be left unpaid, without any eſſential Diſtreſs or Inconveniencies, if the Proviſion of a great Inveſtment, which in Effect is the Tribute of Bengal to Great Britain, could be ſtopped, without producing Effects of the moſt extenſive and alarming Nature at Home; there is another, and a moſt conſiderable Branch of the public Expence, which not to provide for, would be to enſure the inſtant Deſtruction of the Britiſh Empire in India.—That if the Pay of the Army be not regularly iſſued, eſpecially to the Native Troops, the Governor General and Council declare their certain Expectation, that general Mutiny and Revolt will follow; and that it is not unlikely that the Event may happen at the ſame Time that theſe Provinces may be invaded, or that the Expectation of it, from the public Knowledge of our Diſtreſſes under the Circumſtances which we have deſcribed, may excite an Invaſion, when no further Collection of the Revenue can take Place, unleſs with the Aſſiſtance of a Military Force.

The Governor General and Council do not think it neceſſary to enlarge on Circumſtances, or to inſiſt on Effects of leſs Importance, which take their Source and ſpread without; and from every Act that brings the Government of theſe Provinces into Contempt in the Eyes of the Natives—They will not be acceſſary by any Act or Admiſſion of their own, to the State of Degradation, to which the Supreme Court of Judicature have endeavoured to reduce the Government; and if this Remonſtrance ſhould not make that ſerious Impreſſion on the Minds of the Judges which they hope it will do, they ſhall hold themſelves acquitted of all the Conſequences that may enſue, and ſhall chearfully appeal for their further Juſtification to the Legiſlature, from whom they received their Appointment.

Ordered, That the Company's Attornies be directed to authorize and inſtruct their Standing Counſel to make the above Declaration orally in open Court, on Behalf of the Governor General and Council.

Ordered, That the Appearance which has been already entered for the Governor General and Council, to the Action brought againſt them by Coſſinaut Baboo, be withdrawn.

COSSIJURAH APPENDIX, N° 25.

Copy of a Letter from Sir Elijah Impey to Lord Viſcount Weymouth, dated Fort William, 12th March 1780.

My Lord,

I HAD the Honor of writing to you by the Ganges, Talbot, and Swallow; the two firſt Ships acquainted you with the Violence which the Governor General and Council offered to the Sheriff's Officers executing a Writ of Sequeſtration at Coſſijurah, and brought you Vouchers relating to that Tranſaction. By the Swallow, I took the Liberty of ſending you a very long Letter, of which the incloſed is a Duplicate, and further Vouchers. I now only ſend Duplicates of ſuch Vouchers as were contained in the laſt Diſpatch; for as I had ſent Triplicates of the others, I thought it unneceſſary to trouble you with more Copies of them.

Since my laſt, a Motion was made for an Attachment, on account of the Reſcue in the Diſtrict of Mahommed Shy, and granted. Another Reſcue of the ſame Kind has happened at Rungpore, and an Attachment has iſſued in conſequence of it. In theſe two laſt Inſtances there was no Rule to ſhew Cauſe; for we found, by Experience, that ſuch a Rule had no other Effect than to furniſh an additional Opportunity to the Governor General and Council to impede Juſtice.

I ſend the Affidavits for holding to Bail, and thoſe on which the Attachments were iſſued.

A Matter of a ſtill more extraordinary Kind than any which I have yet ſubmitted to your Lordſhip, occurred Yeſterday.

Coſſinaut Baboo, the Plaintiff in the Action againſt Rajah Soondernarrain, having filed a Plaint againſt Mr. Haſtings, Mr. Barwell, Mr. Francis, and Mr. Wheler, for preventing his having the Effect of his Sequeſtration, Summons was iſſued, and Appearances entered ſeverally for the Defendants.

Yeſterday the Junior Counſel for the Company (for Mr. Newman, the Senior, having diſapproved of the Proceeding of the Governor General and Council at Coſſijurah, had refuſed to act as their Advocate in any Part of the Buſineſs) offered to the Court a Paper, containing certain Reſolutions of the Governor General and Council, and moved that it ſhould be read.

On its being read, the Court, conſidering it to be a clear Contempt of His Majeſty's Law, and of His Court, ordered it to be recorded. But as it was in the Caſe of the Governor General and Council, did no other Act in conſequence of it.

The Reaſon of recording it, was to give it more Authenticity, and to put it in a proper Form to be tranſmitted to His Majeſty, or the Two Houſes of Parliament, if your Lordſhip ſhould judge either of thoſe Meaſures adviſeable.

The Advocate who introduced it, deſired that his Conduct might be made Part of the Record, which has been done accordingly, by his Dictation to the Prothonotary. In this State I ſend it; and truſt you will think there needs no Argument or Obſervation from me, to point out its Illegality or dangerous Tendency.

I fear it will not be poſſible for me to ſend Minutes of the Judges Arguments delivered on this Occaſion, by the Ceres, the Ship now under Diſpatch; and perhaps you may not think it neceſſary.

We unanimouſly declared, That if the Defendants had any Right to withdraw their Plea, the proper Mode for doing it would be to apply to the Court for Leave; not to order their Attorney to withdraw it—That if ſuch Motion had been made, it was out of the Power of the Court to allow it, without manifeſt Injuſtice to the Plaintiff; that it would be abſurd to do it, becauſe the Moment it was withdrawn, the Court would be obliged to compel the re-entering of it by Sequeſtration; and that the Abſurdity of doing it would be increaſed in this Caſe, becauſe it would be putting the Defendants, who now declare they will not ſubmit to any Proceſs of the Court, in a Situation to defeat by Force that Juſtice which they had properly ſubmitted to.

That the Defendants, both as Britiſh Subjects, and as being employed by and in the Service of the Eaſt India Company, were ſubject to the Juriſdiction of the Court—That neither the Charter nor Act of Parliament made any Diſtinction between what they called Corporate Acts, or any other Acts done by them as Individuals; and that they were equally amenable to the King's Laws for both.

That they were no Corporation, and therefore regularly ſued as Individuals.

That neither of the Acts of Parliament or the Charter exempted them from Actions, though their Perſons were privileged from Arreſts; and that the Charter had particularly chalked out the Proceſs by which they are compellable to appear to Civil Suits.

That the Court diſavowed having any Right to order the Arreſt of their Perſons in any ſuch Suit, either by Meſne Proceſs, or Writ of Execution.

That to be amenable to the King's Laws, we thought no Degradation to any Subject of His Majeſty, be his Station ever ſo elevated, or be the Suit brought either by a Native, or a Britiſh Subject; that Juſtice was common to both—That one eſpecial Reaſon for inſtituting this Court, was to extend the Benefit of His Majeſty's Laws to Natives, who were perſonally injured, or had their juſt Rights withheld by Britiſh Subjects—That the mere bringing an Action againſt the Council, or any Member of the Council, cannot poſſibly be any Endeavour in the Court to reduce the Government of this Country to any State of Degradation, for it is no Act of the Court; that the Court is open to all Suitors, and has no Power to prevent the inſtituting of any Action whatever, againſt any Perſon, though it ſhould turn out to be ever ſo ill-founded—That this Imputation is caſt on the Court, before the Court had exerciſed any Judgment on any Queſtion in the preſent Action.

That we ſhould proceed ſtrictly in this Cauſe, according to the Charter, and in the ſame Manner as in any other, where there was a Default after Appearance, if the Defendants perſiſted in refuſing to plead; for we could diſtinguiſh no Difference in the Caſes.

That if they thought themſelves not amenable to the Court, they ought to plead to the Juriſdiction, or demur to the Plaint; and if they were diſcontented with our Judgment, the Charter had given them a Remedy by Appeal.

That the Court knows of no higher Juriſdiction, to which any Matter depending here, or any general Queſtion on it, can be referred, except that of His Majeſty in His moſt Honourable Privy Council; nor of any other Mode of Reference, but by Appeal. That it cannot be referred there, per Saltum, without having been firſt ſubmitted to this Court.

That the Court was as deſirous as the Governor General and Council could poſſibly be, That His Majeſty, in His moſt Honourable Privy Council, ſhould exerciſe His Judgment on all Matters in diſpute between the Governor General and Council and the Court; but that we could not help obſerving, that theſe Proceedings of the Governor General and Council tended to defeat, not to promote its going to that higher Juriſdiction.

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That we know of no individual Mode (nor had we any other Means) of bringing any Queſtion before the Parliament, to take the Senſe of the Legiſlature upon it.

That if the Claim to Exemption be not founded in legal Right, to ſuſpend all Proceedings in this Matter, until ſuch Senſe ſhall be taken, would be to ſurrender, in the mean Time, our Truſts to the Governor General and Council—That the Suitors are entitled to Juſtice—That we cannot deny it or delay it without reaſonable Cauſe, unleſs we ſubmit to be guilty of the Breach of our Duty, and the Violation of our Oaths.

That the Court has not interfered, and has diſclaimed any Right to interfere, in the Collection of the Revenues; and that ſolemnly in the Cauſe of Comaul-ul-Dean againſt Goring and others, which was ſent up to England by Appeal.

That the Court does not, nor ever did, claim any Juriſdiction over Zemindars, ſimply as Zemindars; but that their Characters of Zemindars will not exempt them from the Juriſdiction of the Court, if they be employed, or be directly or indirectly in the Service of the Eaſt India Company, or any other Britiſh Subject.

That with regard to Zemindars or other Landholders, we are ignorant what Queſtion is to be referred, and to whom. As no diſtinct defined Propoſition is laid before the Court, by which it may appear by what Right the Governor General and Council take on them to determine, excluſively of this Court, who are and who are not Objects of its Juriſdiction; nor why Zemindars, or other Set of Men, if employed by or in the Service of the Company, or of a Britiſh Subject, is not within the Juriſdiction; nor why the Governor General and Council prohibit either Zemindars, or others whom they deem not Objects of the Court's Juriſdiction, from ſubmitting the Queſtion to a Trial before the Court on a Plea; nor by what other Mode the Court can diſcriminate Perſons who are from thoſe who are not Objects of the King's Law; that both regard to theſe Matters, all which we judicially know appears in Affidavits now before the Court, by which it is ſworn, that the Sheriff's Officers are not permitted to enter the Lines of a Camp at Midnapore, where the Country is in the profoundeſt Peace, without an Order from the Governor General and Council: That we have applied for ſuch Order without being able to obtain it: That the ſame Affidavits acquaint us, that the Zemindars, &c. of Mohammed Shy, Dinagepore, and Rungpore, will not ſuffer any Proceſs, &c. to be executed within thoſe Diſtricts, on any Perſon whomſoever; and that the ſeveral Zemindars have, or pretend to have, Orders from the Governor General and Council, requiring them to offer this open Defiance and Violence to the Authority of the King and Parliament of Great Britain; that theſe Matters may not be true, but that the Affidavits have not yet been anſwered: That if any ill Conſequences aroſe to the State, from any Reſiſtance given to the Court exerciſing its legal Authorities, they were reſponſible who cauſed the Reſiſtance to the King's Juſtice; not they who, by their Duty and and their Oaths, are under Obligations to adminiſter it impartially.

Juſt before the Reſolutions of the Governor General and Council were delivered to the Court, a Motion was made, on the Part of the Plaintiff, under the Direction of the Charter, and our Rules of Practice, to ſet down the Cauſe for Default of Plea to be heard ex parte; and granted as of Courſe. We told the Advocate for the Defendants, that if his Clients would plead, we would ſet aſide the Rule, and give them an Opportunity ſo to do, according to our Practice in other Caſes under the ſame Circumſtances.

Before Mr. Barwell left Bengal, it was ſuppoſed to be the Intention of the Governor General and Council not to appear to the Action, nor ſuffer their Effects to be ſequeſtered (as is directed by the Charter) to compel their Appearance. This Mr. Barwell diſapproved; and left Inſtructions for his Attorney, in caſe the other Defendants did not appear and plead, that an Appearance and Plea ſhould be put in for him.

I hope you will approve of our Reſolutions to abide by what we declared in Court; and that in treating this in the ſame Manner as any other Action, in which a Defendant has appeared, and afterwards made Default, we are only diſcharging our ordinary Duty, and are not reſponſible for the Conſequences which the Governor General and Council, by their Proteſt, endeavour to exonerate themſelves from, and to load us with; more eſpecially as it is an undoubted Truth, that if any Diſturbance ſhould ariſe in the Country, in conſequence of the Acts of the Court, they have been ſolely raiſed and fomented by the preſent Government and their Agents, for the Purpoſe of obſtructing the legal Operations of the Court, and of furniſhing Arguments againſt the Policy of its Inſtitution, and Accuſations againſt the Judges of it. For, till the Reſiſtance given by Government, and their Order to the Natives to deſtroy its Proceſs, no People could be in more full Obedience to, or more peaceably acquieſce in the King's Law, than thoſe Inhabitants of this Country whom the Legiſlature has thought proper to ſubject to the Juriſdiction of the Court.

I have the Honour, &c.
(Signed) E. Impey.

Late at Night, and after my Letters were finiſhed, I received a Note from Mr. Newman, an Advocate of the Court, acquainting me, that Coſſinaut Baboo had juſt then ordered Mr. Uvedale, his Attorney, to diſcontinue his Action againſt Mr. Haſtings, &c. that he was in great Agitation; but whether from Fear, or any other Cauſe, he knew not.—There can hardly be a ſtronger Inſtance of the Power and Influence of this Government, and of the Manner of exerting it, than the inducing this Man to give up ſo large a Demand as he was proſecuting for; and to diſcontinue to Day a Suit which he ſtrongly ſtruggled to ſupport Yeſterday.—They tried what could be done by intimidating the Court; and having found that ineffectual, are getting over the Proſecutors of Contempts to prevent the Authority of the Court being vindicated. It is not probable you will hear of any further Exertion of the Natives in ſupport of their Rights againſt the Power either of Government or Individuals; but the Court will quietly ſink into Inaction and Oblivion. I ſend your Lordſhip a Copy of Mr. Newman's Note. Coſſinaut (by another Meſſage) I learn, has ordered all further Proſecutions in his Name, to be dropt.

Coſſinaut has likewiſe diſcontinued his Action againſt Rajah Soondernarrain.

COSSIJURAH APPENDIX, N° 26.

Copy of a Letter from Sir Elijah Impey to Lord Viſcount Weymouth.

My Lord,

BY the Ganges and Talbot I had the Honour of tranſmitting to you a Packet, containing Matters which my Duty called on me to lay before your Lordſhip. The Ships being ſent away with uncommon Expedition, my Ignorance of their Time of ſailing, the Buſineſs of the Term in which I was then engaged, and new Circumſtances neceſſary to be communicated to you ariſing continually whilſt I had the Pen in my Hand, obliged me to ſend a rough Draught, which I had not Time even to read over before I ſealed it. Though I was ſenſible my Letter was not in a State fit for your Inſpection, I thought I ſhould more eaſily obtain your Forgiveneſs for addreſſing you in that rude and ſlovenly Manner, than I ſhould have done, had I, to avoid that Indecorum, kept back from you the Knowledge of Facts in which the King's Dignity, Laws, and Government are ſo deeply intereſted, and which require a ſpeedy Interpoſition of his Authority. The Diſpatch of the Swallow allowed me an Opportunity of recapitulating the Subject of my laſt Letter, and of adding Occurrences poſterior to its Date.

In Auguſt laſt a Plaint was filed againſt Rajah Soondernarain the Zemindar of Coſſijurah, at the Suit of Coſſinaut Baboo, a capital Merchant of Calcutta. A Capias with a Clauſe empowering the Sheriff to take Bail, was granted by Mr. Juſtice Hyde on an Affidavit by the Plaintiff of the Debt; that the Notes on which the Cauſe of Action aroſe were executed in Calcutta, and that the Defendant was employed by the Eaſt India Company in the Collection of their Revenues. The Proceſs having iſſued without Effect, the Cauſe was duly proceeded in to Sequeſtration, the Sheriff ſent an European Officer with ſome Peons to execute that Writ. He arrived at Coſſijurah in November: The Dewan (the principal Servant of the Defendant) declared to the Officer, that his Maſter was not ſubject to the Juriſdiction of the Court; that he would obey no Orders but from Mr. Haſtings, Mr. Barwell, and the Gentlemen of the Council; and made uſe of indecent and contemptuous Expreſſions regarding the Court. The Bazars or Markets were prohibited from ſupplying the Officer with Neceſſaries, the Country was raiſed againſt him, and he was in the Nature of a Priſoner on the Premiſſes which he had attempted to ſequeſter. Being in this Situation, under great Apprehenſions he wrote to Mr. Stark, the Deputy Sheriff, requiring further Aſſiſtance. During the whole of theſe Tranſactions I had been confined by a ſevere Fit of Illneſs; the Deputy Sheriff applied to Mr. Juſtice Hyde, who referred him to me. As the Officer ſtill remained in Poſſeſſion, and no actual Violence had been committed againſt his Perſon, and as his Complaint conſiſted more in what he apprehended would be done, than what had in Fact been done, I thought it too early for the Court to interfere; I therefore adviſed him to ſend a Reinforcement of Civil Officers to the Aſſiſtance of thoſe already there, and to requeſt further Aid from Mr. Pearce, the Chief of Midnapore, in which Diſtrict Coſſijurah is, to ſhew him the laſt Clauſe in the Charter, and if he refuſed or neglected to give him proper Aid, to deſire that he would at leaſt ſend ſome Perſon who ſhould ſee that the Sheriff's Officers committed no Violences, but ſtrictly reſtrained themſelves to the Execution of their Duty.

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On the Arrival of this Reinforcement at Coſſijurah, they were met by Two Companies of Sepoys, commanded by Lieutenant Stephen Bomford, accompanied by Mr. William Swainſton, Aſſiſtant to Mr. Pearce. They immediately ſeized the whole Sheriff's Party, beat ſome of them, impriſoned all, took from them their Papers, and among the reſt the Inventory of the Effects which had been ſequeſtered; marched them Priſoners Twelve Miles, then put them on board Boats, and landed them at Calcutta, and there ſet them at Liberty.

The Vakeel of the Defendant had before this been ſolicited and menaced by Mr. Naylor, the Company's Attorney, for the Purpoſe of prevailing on him to withdraw his Warrant of Attorney, and Naylor had been frequently at the Sheriff's Office, to procure Intelligence of the Numbers of the Party which were to be ſent by the Sheriff to Coſſijurah.

On the 18th of laſt Month, Motions were made for an Attachment againſt Bomford and Swainſton, and that Warren Haſtings and Richard Barwell, Eſquires, and North Naylor, One of the Attornies of the Court, ſhould anſwer the Matters of the Affidavits. The Court refuſed to grant any Rule againſt Meſſrs. Haſtings and Barwell. Rules to ſhew Cauſe were granted againſt Bomford and Swainſton. Naylor was ordered to anſwer the Affidavits. The Sheriff was directed to ſerve the Governor General and the Members of the Council with the Rules, and a Copy of the laſt Clauſe in the Charter, and to demand Aſſiſtance under it in executing the Rule on the ſeveral Defendants.

Swainſton was now come to Calcutta, and the Rules were ſerved on him and Naylor there. Bomford is an Officer belonging to a Battalion of Sepoys commanded by Lieutenant Colonel Ahmuty, and encamped at Midnapore. The Sheriff's Officer who went to ſerve the Rule on Bomford was ſtopped by a Centinel, and the Colonel being informed of his Buſineſs, ſent him Word that he ſhould not enter the Lines without an Order from the Governor General and Council. On an Affidavit ſtating this Information, received from the Bailiff, the Rule againſt Bomford was enlarged on the 27th of laſt Month. The Sheriff was ordered to ſerve the Governor General and Council with the like Notices as on the original Rule, to acquaint them with the Obſtruction given to the Sheriff's Officer, and to require an Order for his Admiſſion into the Camp, and that he ſhould be no further impeded. There being no Probability that the Rule could be ſerved within the Term, this as well as the Rules againſt Swainſton and Naylor, are enlarged till the next Term, viz. the 1ſt March, that the whole Buſineſs might come on together.

The Sheriff has as yet been as unſucceſsful in ſerving the enlarged Rule on Bomford, as he was in the Caſe of the original Rule. The Governor General and Council, though ſerved with the above Notices, have given no Aſſiſtance to the Sheriff, and from the Conduct of Colonel Ahmuty it ſeems evident, that they have not given any Order for the Admiſſion of the Sheriff's Officer within the Camp; for ſtill greater Diligence is now uſed to prevent the Service; Colonel Ahmuty abſolutely refuſed to receive a Note ſent him by the Sheriff's Officer; no Perſon is ſuffered to paſs the Lines, without being ſtrictly ſearched to diſcover whether he comes from the Sheriff. The Officer having been refuſed Admittance on avowing his Purpoſe, it was attempted to ſerve the Defendant by Artifice; a common Peon was ſent from Calcutta, as if with a private Letter to Bomford; but he had been dogged from the Sheriff's Office at Calcutta, and was therefore prohibited from delivering it.

An Opinion given by Sir John Day, dated 17th October laſt, is the oſtenſible Cauſe of theſe Proceedings of the Governor General and Council, and likewiſe of an Order iſſued to all Zemindars, Talookdars, and Chowdries (different Landholders) to inform them, that they and the other Inhabitants of theſe Provinces were only ſubject to the Juriſdiction of the Court in the Two following Caſes, viz. "When the Perſon againſt whom a Complaint is made has been at the very Time the Debt or other Cauſe of Complaint occurred, either openly employed by or *ſecretly* in the Service of the Company, or any *Dependants* of the *Engliſh King*. Secondly, when the Perſon againſt whom the Complaint is made, has himſelf given in Writing an Aſſent or Engagement to any of the Dependants of the *Engliſh King*, and the Matter of the Action ſhall be more than the Sum of Five hundred Rupees, Calcutta Currency, and that Perſon ſhall have given in Writing an Aſſent or Engagement, that in caſe of a Diſpute, this Matter ſhall be brought and decided in the Engliſh Adaulut in Calcutta, that is to ſay the Supreme Court;" and the ſame Order requires, except in theſe Two Caſes, if any of the Sheriff's Officers ſhall carry Summons, Warrants, or any other Orders on the Part of the Court directed to them, that they ſhall not attend to the Orders of the ſaid Adaulut, nor ſay any Thing there by Way of Queſtion or Reply, nor do nor ſuffer any Thing to be done whereby it may appear on their Parts that they aſſent to the Orders of the Adaulut.

I apprehend the Governor General and Council have wrote Home concerning this Buſineſs by the Southampton and Naſſau; this it was impoſſible for me to do, for it was not till the 18th of laſt Month that I knew Sir John had given any ſuch Opinion, and but a few Days before, that I got Intelligence of the Perſian Order, or that any Thing of that Nature, had been circulated in the Country.

In a Converſation with Mr. Haſtings, juſt before the Term which commenced the 7th of January laſt, I repreſented to him the Subjection in which the Court would be to the Council, if the Council aſſumed to themſelves to determine on the Juriſdiction of the Court; the dangerous Conſequences of making the Defendants themſelves judges of it, of their reſiſting the compulſory Proceſs by Force, and being ſupported in it by the Power of that Government. He complained, that Application had not been made to the Council for Aſſiſtance. I told him ſuch Application had been made to the Chief of Midnapore, which I did not doubt had been tranſmitted to the Council; and that if he would promiſe that Aſſiſtance ſhould be given on Requiſition, I would undertake that no other Force ſhould be made uſe of, but that which ſhould be borrowed from his Government; (on a like Argument being made uſe of in Court, I made the ſame Promiſe from the Bench which the other Judges aſſented to) he declined making ſuch Promiſe. I told him, that if the Defendant would even now plead, I would do all that lay in my Power to prevent any Proſecution being commenced for what was paſt, and that I did not doubt being able to effect it; that if the Defendant was, as he ſaid, not an Object of the Juriſdiction, no Prejudice could ariſe to him by pleading it, for he would have Judgment in his Favour, and would be no more moleſted; if againſt him, he might appeal. I even went ſo far as to ſay, That if the Facts turned out as he ſtated (for he ſtated him to receive Revenues to his own Uſe only) I ſhould give my Opinion, that the Defendant was not an Object of the Court's Juriſdiction, and that I would anſwer for that of the other Judges.

Having been told on Sunday the 9th of January, that Motions for Attachment would be made the next Day; I immediately wrote to the Governor General, deſiring Liberty to wait on him before I went to Court the next Day, that I might endeavour to ſhake him in his Purpoſe of oppoſing the Court. Mr. Haſtings had not dropt the leaſt Hint to me either of Sir John's Opinion, or the Perſian Order, but between this Time and the Converſation with him which I have mentioned, I had procured a Copy of both. By his Anſwer he declined my coming to him, and ſaid he would call on me; I waited at Home for him without ſeeing him till an Hour after I uſually go to Court (and I am ſo ſtrictly punctual in my Attendance, that the Hour of my ſitting in Court is notorious) and when I afterwards met him, he did not take the leaſt Notice of my Letter; this I found to be the Mode by which he intended to let me know that there was to be no Accommodation. The Illneſs of the Under Sheriff prevented the Motions from being made till the 18th.

After the Rules were granted, I again renewed my former Propoſition, that the Defendant ſhould be permitted to plead, and that all further Proſecutions ſhould be ſtaid. He ſaid, that was giving up the Point the Council contended for, and could not be. I then aſked him, whether the Council inſiſted that ſuch Perſons, whom they contended were not Objects of the Juriſdiction, ſhould not ſubmit to have that Point tried by the Court? He roundly told me, that was what they inſiſted on, and would maintain at all Events.

Another Plaint had been filed by Coſſinaut Dobee againſt Ranckiſſore Surmono, on Affidavit of Debt; and that the Defendant was an Aumeen, or Comptroller of the Company's Revenues, and received a Salary by the Hands of Mr. Harwood, Chief of Dinagepore. A Capias was iſſued againſt the Defendant, with a bailable Clauſe—Two Bailiffs were diſpatched to execute it—The Defendant quietly ſubmitted to the Arreſt; but Rajah Budinaut, the Zemindar of the Place, ſent out a large Body of Men, who reſcued the Defendant, ſeized the Sheriff's Officers, confined them One Night, and the next Morning carried them before the Zemindar, who told them he had received an Order from the Governor General and Council, which he ſaid he had in his Hand, forbidding him to allow any Warrants from the Court to be executed within the Diſtrict of Dinagepore—That he had before ſuffered Warrants to be executed there; but ſince he had received the Order, he would not permit the Execution of another. He diſmiſſed them, as they were but Two; threatened them, if they returned; and that if Europeans, or a greater Number, came, he would treat them in a different Manner. On an Affidavit of theſe Facts, an Application for an Attachment was, on the 27th of laſt Month, made againſt the Zemindar, and a Rule to ſhew Cauſe granted, which was ordered to be ſerved on the Governor General and Council, in like Manner as the former Rules. I hear of many other Caſes, where the Sheriff's Officers have been obſtructed, and returned without being able to execute Proceſs, the Particulars of which I am not yet informed; but there is one nearly circumſtanced like the laſt, which having happened in this Vacation, is not yet before the Court. The Name of the Cauſe is, Soorgenarain Roy againſt Luckeynarain Chowdry and Noko Chowdry; a Reſcue has been made by Beenut, another Chowdry, who declared he had an Order from the Governor General and Council (and ſhewed a Paper, which he ſaid was that Order) that no Proceſs of the Court ſhould be executed in the Diſtrict of Mahommed Shy. The Affidavit on which it was intended to ground a Motion for an Attachment, has been juſt brought to me. The Affidavit for holding to Bail, ſwears to a Debt of Three thouſand Six hundred and Eighty-ſix Rupees Eight Annas; and that the Defendant was, when the Cauſe of Action accrued, in the Service of Charles Purling, Eſq; a Britiſh Subject.

Mr. Short became, at the Deſire of Mr. Riddle, now on his Paſſage to England, Bail for the Defendants in the Cauſe of Anupe and Booka againſt Radakiſſen and Chumroo Metre. The Cauſe was tried in the Third Term (June) 1779; and the Plaintiff had Judgment for Five thouſand One hundred and Forty-nine Sicca Rupees. The Plaintiff ſwore, in the Affidavit on which the Capias was granted, that the Defendants were Gomaſtahs in the Service of Mr. Riddle, a Britiſh Subject. One of the Plaintiffs died before the Trial, and a Suggeſtion of his Death is on the Record. Mr. Short, on his Journey up the Country, ſtopped at the Houſe of Mr. Cleveland, his intimate Friend, and Chief of Boglepore, the Diſtrict in which the Defendants reſide. Mr. Cleveland informed him, that the Defendants being Aumils, came under the Deſcription of Perſons whom, by the Order of the Governor General and Council, he was to protect from the Supreme Court; and that he ſhould therefore not ſuffer the Judgment to be executed. I ſend a Clauſe of Mr. Short's Letter to Mr. William Johnſon, Clerk of the Crown, in which this Account is given.

I have received Intelligence, that at the Time of the diſtributing of the Perſian Order, both the Natives, Provincial Councils, and Chiefs of Diſtricts, had private Inſtructions of much greater Latitude than the Words of the Order, even to the limiting the Proceſs to the Town of Calcutta; but my Intelligence is not ſuch as I will vouch the Truth of. But by the Declarations of Budinaut and Beenut, it is evident that Two large Diſtricts are entirely exempted from Proceſs; they moſt undoubtedly contain both Britiſh Subjects and other Inhabitants, perſonally ſubmitted to the Juriſdiction of the Court by the Deſcriptions in the Charter. As no particular Cauſe can be aſſigned why the Diſtricts of Dinagepore and Mahomed Shy ſhould be diſtinguiſhed from the other Parts of the Provinces, it is reaſonable to imagine the Order extends equally to the Provinces beyond Calcutta.

From Mr. Cleveland we learn, that Perſons clearly within the Deſcriptions which give the Court Juriſdiction, and ſpecifically ſworn to be in the Service of Britiſh Subjects, are to be protected againſt the Court, if they fell under other Deſcriptions, though they have defended the Cauſe, and have not pleaded to, or pretended not to be Objects of the Juriſdiction.

Colonel Ahmuty's Conduct evinces, that Military Lines are privileged from the Proceſs of the Court, without an Order from the Governor General and Council, and their Neglect of the Sheriff's Requiſition ſhews they will not grant it.

In what other Inſtances the Government intends to interfere with the Court, we can only learn from the Reſiſtance which we ſhall experience.

The ſame Mr. Short informed me by Letter, that an Addreſs was to be preſented to the Governor and Council, returning them Thanks for their Proceedings in the Buſineſs of Coſſijurah. Incredible as it may appear, I have it from an Authority from which I cannot withhold my Belief, that a Petition has been formed, and ſubſcribed by a great Number of the Company's Servants, requeſting the Governor General, &c. to limit the Proceſs of the Court to the Town of Calcutta, and with this expreſs Reaſon aſſigned, that it may not appear to the Natives, that there any where exiſts a Power ſuperior to that of the Company. Whether on better Conſideration that will be brought forward, I much doubt, as the Acts already exerted againſt the Court have nearly produced the Effect intended by the Petitioners; I ſhould rather ſuppoſe, if it be received by the Council, it is only for the Purpoſe of inculcating the general Senſe, which they wiſh to have underſtood is entertained of the Court.

The Petitions which are in Perſian, from the Idioms in which they are written, and the Reaſonings and Sentiments which they contain, totally diſſonant from the Ideas of the Natives of this Country, prove themſelves to have been dictated by Engliſhmen, and have been openly procured by the Agents of Government. The only Manner in which the obtaining Petitions here differs from the Modes practiſed by Factions in England, is, there they are ſolicited and got by Influence, here they are commanded.

When the Petition which I wrote about by the Southampton and Naſſau was in Agitation, many of the Black Inhabitants were deſirous of preſenting to the Court a Counter-petition, but found it would be diſpleaſing to Gentlemen in Power, and were obliged to drop it; and indeed, as I well knew in what little Repute ſuch Acts in England ſtood, and was conſcious they deſerved no more Credit from this Place, I gave Rajah Nobkiſſen, the Agent for it, who wiſhed to make a Merit with me by it, but ſmall Encouragement. The Petition to which I allude was ſent to Baſſorah in March laſt, to be diſpatched to England over Land, and with ſuch Secrecy, that the Judges knew nothing of it, till within theſe Two Months, when we heard it was ſafely arrived at that Port, ſo that my Letters concerning it muſt have moſt probably arrived too late in England to have obviated any Impreſſions which it was calculated to make.

I need not enforce by Arguments the Indignity put upon the Act of Parliament and the King's Charter, by the Violences which have been committed, and which are every Day continued, nor their direct Tendency to the total Subverſion of the Power of the Court.

But One Term has intervened ſince theſe Diſputes; and the Buſineſs of the Court, as I eſtimate, has fallen off near one Third; and in a Term or Two, when the Cauſes already commenced are got rid of, I expect it will be reduced to the Trial of a few Cauſes ariſing in Calcutta, to which Place the Natives are taught to underſtand the Functions of the Court have been confined by the Authority of the Governor General and Council.

The Advocates, Attornies, and Officers of the Court, who have not already ſucceeded, will be reduced to a moſt deplorable Situation. The Attornies have petitioned us, that on Account of the Difficulty of their procuring Subſiſtence in the preſent State of Things, that their Number may not be increaſed by new Admiſſions:—Though Perſons may come from England ſo qualified and recommended that we may not be able to comply with this Requiſition, yet I really apprehend we ſhall do them little Service by admitting them, for it ſeems to me, it will be only to give them the Privilege of ſtarving in Company with the preſent Attornies.

From Sir John Day's Opinion, it would ſeem either that the Court had determined the Character of Zemindar ſubjected the Poſſeſſor of it to the Court; nothing like which has ever been adjudged or ſuggeſted by any Judge, either in or out of Court; he thinks Zemindars, though employed by or in the Service of the Company, are, becauſe Zemindars, excepted out of the Act of Parliament; for which (though he ſeems to treat it as a clear Caſe) I cannot diſcover his Authority or Argument. What he means by "the only Word in the Act that admits of Latitude of Conſtruction, contrary to the evident Intention of the Legiſlature, to which the Judges have given their own Application," I cannot divine. I know of no Determination of the Court which has for its Support ſuch Force given to a particular Word. We have always propoſed, however we may have failed, to make the general Tenor and evident Intention of the Act, our Rule in all Queſtions of Juriſdiction; and I truſt, on the candid Examination of our Proceedings, we ſhall be found ſcrupulouſly cautious not to extend it beyond the cleareſt and moſt defined Limits which can be put upon it, and not to admit forced Conſtruction for the Purpoſe of enlarging it, however beneficial ſuch Conſtruction might be. This I contended for againſt Mr. Juſtice Le Maiſtre all his Life, and have uniformly kept to ever ſince.

If an Affidavit, that the Defendant is an Object of the Juriſdiction, and ſpecifying in what Manner he becomes ſo, "is not a ſufficient Barrier againſt Injury," I muſt plead my Inability to contrive a better; and if a better had been ſuggeſted by him, or the Governor General and Council, I ſhould moſt readily have adopted. If "before we had acquired a thorough Knowledge in this Country, we had once adopted, and ſtill adhered to a Mode of deciding on every Plea to the Juriſdiction inadequate to its profeſſed Purpoſe, and every Way exceptionable," as "Queſtions of this Nature had been frequently before him," why has he never, in the Character of a Lawyer, adviſed an Appeal? what Length of Reſidence here, or particular Means of Information ſuperior to that of the Judges, has enabled him to act as a Politician? For the reſt, I ſhall leave the Opinion to ſpeak for itſelf, both for its Legality, good Senſe, Prudence, and Decency.

What the Perſian Paper was intended to effect, be it called an Order or a Notice (for I underſtand the Government mean to call it only a Notice) is too obvious to need a Comment; and if it did, is explained by their ſubſequent Acts;—but it requires a Knowledge of the Manners and Mode of thinking of the People, to judge of the full Extent of thoſe Effects.

The Tranſlation I ſend is accurate and authentic; it is according to the Perſian Idiom, as well as the Engliſh Mandatory, and every Man in the Country muſt underſtand it to be an Order; but whether an Order or Notice, ſeems only a Diſpute on Words, for Notice from a deſpotic Government to its Subjects and Agents, eſpecially for the Purpoſe of aſſerting their own Immunities from Juſtice, will ever have the Force of an Order.

I ſhall make but Two Obſervations on this Paper; the Firſt, that it affects only to be a Tranſlation of Part of the Thirteenth of George the Third, and conveys a diſtinct Notice to the Inhabitants by what Means alone they are ſubject to the King's Laws.—How juſtly the Idea of the Legiſlature, in the Expreſſion of being employed by, or directly or indirectly in the Service of the Company, &c. is kept up in the Order by theſe Words, "either openly employed by, or ſecretly in the Service of, &c." and whether all indirect Agencies, which are here very frequent, are not thereby excluded, I leave to your better Judgement to determine—but the Juriſdiction of the Court is clearly intended to be confined to the Act alone, without any Reference to His Majeſty's Charter; the Charter in that Reſpect is more full and ſpecific. But to neglect the Charter, and rely only on the Act, is perfectly conformable to the Doctrine which has lately prevailed here, and urged in the Petition, praying for Juries, which I ſent to England; that the Charter is no further of Force but in Caſes where it is authorized by the Act.—As they have thought proper to leave out of the Order, that Part of the Act which declares the general Juriſdiction from the ſelected Part, it would appear at leaſt problematical whether the Court could entertain any criminal Juriſdiction over any Native under any Deſcription whatſoever. Without any further Explanation it is therefore certainly defective, and if ſuch a Publication, for the Purpoſe for which it was intended, could be at all juſtified, ſurely in a Matter of ſuch Moment as reſiſting the King's Authority, the Caſes in which it was ſanctioned ſhould have been defined, and made as perceptible to their Underſtandings as poſſible. The other Obſervation is, that the whole Tenor of the Paper is degrading in its Style, both to the King and the Court; at the ſame Time that it mentions the Governor General and Council in a Style which is never properly applied but to a Sovereign Prince. The Force of this Obſervation cannot be underſtood, without a competent Knowledge of the Perſian Idiom, and of the great Streſs which is laid on the ſmalleſt Want of what is eſteemed Decorum in this Country. The Perſian Tranſlation, printed with the Act of Parliament, and ſent to India, has been cautious in this Point; but that Tranſlation has not been followed in this Order, "ſaid," "aforeſaid," and "to wit," which are applied to the Court in the Order, are never uſed to Perſons or Things which are propoſed to be treated with Reſpect. The Engliſh Adaulut, without any other Style, is evidently meant to degrade.—The Names of the Princes of Hindoſtan are never introduced without great Pomp of Words, calculated to create, and really creating, great Veneration in the Minds of the People. A Native would be ſhocked at the Omiſſion of it in the Caſe of his King, and can have no Idea of Royalty in another without it. No Title is given to His Majeſty; he is ſimply called the *Engliſh King*. Though the Words "Subjects of His Majeſty," may be, and are aptly tranſlated into Perſian in the printed Tranſlation; the Drawer of this Order has, in his Interpretation, purpoſely avoided giving the Word which expreſſes the relation of Subjects to a Sovereign Prince, and has uſed that which only ſignifies Dependants or Retainers of common Perſons. But the Petitions which are mentioned in the Order, are ſaid to have been preſented to the *Preſence* of the Governor General and Council, a Mode of Expreſſion which is never uſed, but when treating of Majeſty itſelf.—Theſe literal Diſquiſitions may appear trifling in Europe, but the Ideas of India give them a Conſequence which can ſcarcely be believed.

Two Complaints have been more particularly directed againſt the Court; one, that it has exceeded its Juriſdiction; the other, that its executive Officers have been guilty of great Abuſes; and for captivating a more than ordinary Attention to theſe Complaints, they have held them out as Cauſes which affect the Revenues of the Company.

Againſt ſo great a Clamour, and after the Governor General and Council have applied a Remedy to theſe pretended Evils, by open Defiance of the King's Authority, which they can only hope to juſtify by ſhewing the Magnitude of them, and the Neceſſity of the Caſe, naked Aſſertions, that the Evils do not exiſt, would not, perhaps, be much attended to, unleſs I had Facts to vouch, which would verify thoſe Aſſertions. From the Nature of the Caſe they can only amount to negative Proofs; as ſuch, they are as ſtrong as can be expected. The Complaint of our exceeding our Juriſdiction commenced early in the Time of Sir John Clavering; nor has any new Point, to the beſt of my Recollection, been determined concerning it. Yet no Appeal has been made, or any Judgment given on any Plea to the Juriſdiction; nor has any Proſecution been commenced againſt any Perſon, for ſwearing to the Facts, which render Natives Objects of our Juriſdiction, and which are neceſſary to be verified, before Proceſs can be obtained.

I have frequently deſired the Governor General, that if he was diſſatisfied, one of theſe Courſes ſhould be taken, that the Queſtion might be ſubmitted to His Majeſty in Council, and finally determined. As there have been no ſuch Appeals or Proſecutions, I truſt we ſhall not be cenſurable for Exceſs of Juriſdiction, on mere Clamour, and unexamined Accuſations, without ſome one authentic Document be tranſmitted to England, to evince, that in ſome one Caſe, the Facts proved on the Plea to the Juriſdiction, were not ſolid Grounds for our Determination in favour of it. All the Evidence is taken in Court in Writing; our Records are open; if ſuch a Caſe exiſts, it may be produced. But ſuch Proof I defy, for we have never determined in ſupport of the Juriſdiction, but on the moſt unequivocal Evidence.

I ſhall not take on me to ſay, that no Abuſes have been committed by Sheriff's Officers; but I will, that they are, in Proportion to our Buſineſs, much leſs frequent here than in England, where I have known the Diſcuſſions of their Offences take not an inconſiderable Part of the Buſineſs of a Term in the King's Bench; and I am able to make Uſe of the ſame negative Proofs as to this Point. The Governor General has frequently complained to me of them, and ſtated Repreſentations which he has received againſt them: I have as frequently called on him to order Proſecutions to be commenced againſt them, with the moſt ſolemn Aſſurances, if the Facts complained of were proved, that ſuch Puniſhments ſhould be inflicted as would deter others from the like Offences; but I have never been able to prevail on him to bring a ſingle Complaint before the Court.

From the univerſal Tenor of the Conduct of Government, from the Anxiety with which Complaints againſt the Court are collected, and the Secreſy with which they are ſent to England; from no Appeal having been made on any Queſtion of Juriſdiction, and no public Proſecution carried on againſt the Miniſters of Juſtice, it appears to me to have been a concerted Plan, to enter every Repreſentation to the Prejudice of the Court or its Officers, ſilently and ex parte on their Records, and not to let the Facts which they contain be brought to a public Diſcuſſion, either here or at Home, by which, that which they hope to prevail, unexamined by its Weight, as an heavy Body Accuſation, might be liable, on Examination, to be refuted and falſified.

Every Thing which was thought of by us, or ſuggeſted by others, for the Eaſe of the Suitors, or for the Benefit of the Company, has been adopted; no Perſon can be arreſted without a poſitive Affidavit that he is ſubject to the Juriſdiction, and of the particular Fact that makes him ſo; and to this the Judge who grants the Proceſs, himſelf examines. All ſpecial Pleas are diſpenſed with;

and, on Notice given, the Special Matter is allowed to be proved in Evidence on the General Iſſue. The Defendants are permitted to plead to the Juriſdiction, and at the ſame Time to the Action, without Prejudice to the Firſt Plea. Tranſlations in the Bengal Language accompany every Proceſs, and muſt be ſerved on the Party. Bail Bonds are ſent with Proceſs, and the Sheriff's Officer executing Proceſs, is authorized to take Bail. Paupers have an Attorney and an Advocate to ſue or defend for them gratis. No Habeas Corpus can iſſue, where there is any Preſumption that the Confinement has been by any Officer of Government, without Notice having been firſt given to the Company.

No Perſon impriſoned by the Authority of Government in Calcutta, on account of the Revenues, is liable to be taken out of their Cuſtody by the Civil Proceſs of the Court. He muſt be brought up to plead, and then be remanded, and an Intimation given to the Governor General and Council, that if they would move the Court for it, a like Rule ſhould provide for ſimilar Caſes all through the Provinces. No Application has yet been made to extend the Rule beyond Calcutta, and no further Complaint came to my Hearing, of any Inconvenience on that Head.

The Governor General and Council ſuggeſted, by their Advocate, that it would obviate many Impediments to their Buſineſs, if we would give Liberty to a Perſon appointed by them, to examine our Offices, to ſee if there were any Suits againſt Perſons connected with Government, that they might have an Opportunity of immediately putting in Bail, and pleading for ſuch Perſons. A Rule for this Purpoſe was granted, on the Appointee ſubmitting to an Oath, to prevent the Information he acquired being uſed to the Obſtruction of Juſtice.

If Zemindars, &c. employed by the Company, are to be made liable to any Judicature, it ought to be indifferent both to them and the Government what that Judicature is, if it be upright and intelligent. I do not heſitate to ſay (if the Supreme Court is allowed ſo to be) that there does not exiſt another, either Criminal or Civil throughout the Company's Territorial Acquiſitions.

Since Mahomed Reza Khawn has been out of Office, all criminal Juriſdiction has been nearly ſuſpended; and both during his Time and ſince, the Black Judges in thoſe Courts have been ſo ſubſervient to the Engliſh Gentlemen in the ſeveral Parts of the Country, that they have been always ready to form or alter their Judgments according to their Will and Pleaſure. And however ſpecious on Paper the Plan for Adminiſtration may appear, Civil Juſtice has never been executed according to that Plan.

The Courts of Civil Juſtice or Dewannee Adauluts, are annexed to what are called Provincial Councils, which conſiſts of Five Members, one Member by Rotation ſits in the Adaulut; but though he ſits there, he does no judicial Act; he examines neither the Fact, nor the Law ariſing on it; he receives the Complaint, and immediately refers it to the Cauzee and Moulavies, whoſe miſerable Pittance of Salaries obliges them to be corrupt for the Means of Livelihood, and whoſe Ignorance both of Law and Evidence render them incapable either of the Inveſtigation of Facts, or determining the Law on them; for they are of the meaneſt of the People. It is the Duty of theſe Perſons to draw up a State of the Caſe, and with it an Opinion, to ground an Order for that Opinion being carried into Execution. This State is formed on Facts collected not from Witneſſes on Oath, but from Hearſay, from Notes ſent backwards and forwards between theſe Referees, and about Witneſſes, and even from Anſwers verbally delivered to Peons and Hircarrahs, ſent to aſk Queſtions of ſuch Witneſſes. The whole Buſineſs of the Engliſh Gentleman who preſides in this Court, is to receive the Complaint, and to give an order for the executing as Judgments, the Opinions of the Cauzees, &c. formed from theſe Premiſes.

A great Superiority to the Supreme Court has been attributed to theſe Tribunals, from the Knowledge which the Members of theſe Councils are ſaid to have acquired in the Language and Manners, and Laws of the Country. Very few indeed, of the oldeſt of the Servants are poſſeſſed of this Superiority; very few have Knowledge of the common Language of the Country ſufficiently accurate to underſtand the Allegations of the Party, much leſs to examine Witneſſes; fewer underſtand Perſian, the Language in which the Orders, Judgments, and other Records of the Court, and the States of the Caſes which they are to ſanction are written; and none pretend to be acquainted with the Laws. But it is not always that the oldeſt Servants of the Company fill theſe Offices; I believe there are not wanting Inſtances of Boys in their Minority, or but juſt paſt it, being Members of the Councils, which decide on ſuch immenſe Property as frequently come before theſe Courts: They ſit in Rotation, I think it will hardly be contended, that every Company's Servant who comes to be a Member of a Council, is qualified to be a Judge.

The objection againſt the Judges being inconverſant with the Manners of the People, muſt be every Day leſſening; they have now been long enough in India to be on a Par both as to Language and Inſight into the Manners of the Country, with many of the Members of theſe Councils.

The Supreme Court is aſſiſted with Pundits and Moulavies, as capable of explaining the Laws of the Country to them as any the Adauluts are poſſeſſed of. But if this Superiority be as decided in their Favour, as they wiſh to have it underſtood to be, theſe Gentlemen do not permit the Suitors which are before them to avail themſelves of it, for they univerſally commit the Execution of this important Truſt to the meaneſt and moſt corrupt Subſtitutes; and ſome Members of theſe Councils have not been free from Imputations of the groſſeſt Corruptions.

As to the Complaint, that the Proceſs of the Court draws Zemindars to Calcutta, at a great Diſtance, which has been ſtated as vexatious and oppreſſive, and detrimental to the Revenues, the Fact does not exiſt. The Mode of tranſacting Buſineſs by Vakeels or Attornies, is much more in uſe in India than in Europe.

The real Hardſhip to the Zemindars, &c. is, that they ſhould be ſubmitted to any regular Tribunal, who can puniſh their Crimes, and make them fulfil their Contracts to the Government; and the Company's Servants, who are in Hopes to be in high Stations diſtant from Calcutta, that they are not permitted to protect them either from Puniſhment or juſt Claims. The Argument in favour of Zemindars, &c. as to exempting them from the Court, which is moſt relied on, and has been ſeriouſly inſiſted on to me, is, that they have contracted Debts at high Intereſt, when there was no ſuch Things as regular Juſtice; that the contracting Parties never expected, that the Money could be recovered by Courſe of Law; that the Lender ſolely depended on the Contingency of obtaining a Patron, who would be able to compel Payment from the Borrower, and the Borrower at the ſame Time, looked to find as powerful a Patron, who would ſecure him from the Demands of his Creditor: It is now ſaid, It would be extremely cruel to render certain, by the Means of the Court, that Recovery which both Parties intended ſhould be Contingent. Againſt this powerful Argument, I have found it in vain to urge, that it was juſt, that the Principal at leaſt ſhould be paid, and that it was in the Power of the Court to mitigate unconſcionable Intereſt; that if the Contingency had now turned out in favour of the Lender by the Patronage of His Majeſty, it was but fair he ſhould avail himſelf of it, and that it was now only become a Queſtion in all Caſes where the Zemindar, &c. fell within the Deſcriptions which would make other Natives liable to the Court, whether the Contingency had happened in Favour of him or his Creditor, that is, whether Protection was to be found in the King's Court for Juſtice, or in the Company's Servants for Injuſtice. I may ſafely aver, that there cannot be a more fruitful Source of Corruption, or ſtronger Engine of arbitrary Power, than a diſcretionary Right to permit or prohibit the Recovery of juſt Debts, and to ſubject to, or protect, the moſt opulent and moſt powerful Natives from Puniſhment. No doubt of the honeſty of the Debt due from Soondernarrain to Coſſinaut Baboo; it was not till after many fruitleſs Applications to Government, not in Nature of ſuing for Juſtice but for Favour, that at the End of ſeveral Years, his Plaint was filed in the Court.

Zemindars have not always been ſuch Favourities of Government; nor are they ſo, but when the Court is oppoſed to them; they were not ſo when the Twenty-four Purgunnahs were given to the Company; they were not ſo when the Lands were firſt let out to farm; in Conſequence of theſe Two Events, many of the moſt ancient Families of Zemindars are reduced to the loweſt State of Beggary. Every Servant of the Company, before the Erection of the Court, were not underſtood to have been extremely zealous for the Rights of the Natives or the Intereſts of the Company; they are now to a Man, Vindicators of the Natives againſt the Injuries from the Court, and the moſt watchful Diſcerners of its Incroachments on the Rights of their Employers. Their Protection is extended only to their own Agents, Perſons ſpecifically ſubjected by the Act to our Juriſdiction, againſt thoſe whoſe Rights are with-held, their Property violated, and Perſons outrayed by the Means of Engliſh Power and Influence, who are thoſe who in the Act ſpecifically intended to relieve and avenge.

That the Revenues have for ſome Years fallen ſhort, I believe to be true; but that the Court has been at all inſtrumental to it, otherwiſe than as furniſhing a Pretext for winking at Abuſes, I think, I may poſitively deny. There are other obvious and adequate Cauſes.

My Attention has been always anxiouſly directed to ſupport the Authority of Government, and to facilitate the Collections of the Revenues; and though Patronage, Influence, and arbitrary Will, may have met with ſome ſmall Check, the legal and avowed Powers of the State have received no Diminution from the Court; they might have acquired Strength, if the Adminiſtrators of it would have condeſcended to make Uſe of the King's Authority in his Court of Law.

I don't recollect an Example in Hiſtory of any Court but this, which has been created by an Authority different from that which has been in the Poſſeſſion of the executive Power of the Country in which it was eſtabliſhed; and which the executive Power undermined by its ſecret Influence, and oppoſed by open Hoſtility.

I believe, it will hardly be imagined, that none of the Abuſes to which the Statute is pointed had Exiſtence before that Law, and I fear we ſhall not obtain the Honour of having it credited, that the Terrors of the Court have annihilated them. I do do not remember, out of the different Suits ordered by the Directors, that one has been commenced; this I am ſure, none have been proſecuted with Effect.

That the Obſtructions to which the Adminiſtration of Juſtice is expoſed, will appear of ſuch Weight to engage your Lordſhip's Attention, I can have no Doubt; it is my Duty to point them out; it would be Preſumption in me to offer any Advice as to the Mode of removing them, or vindicating His Majeſty's violated Authority.

The leaving the Nomination of the Sheriff to the Governor General and Council, places the controul over the Execution of the Acts of the Court in their Hands, and I expect ſoon to feel the Effect of it. Our Admiralty Juriſdiction, from the Reſtriction as to the Perſons and the Deſcription of the Seas over which alone it is made to extend, is hardly more than nominal. I take the Liberty of mentioning this, as a regular Admiralty Juriſdiction here, might have its Convenience here in Time of War.

On the State of Facts which I have had the Honour of ſubmitting to your Lordſhip, I hope you will be of Opinion, that the Court has not done more than purſue the Intention and Letter of the Act of Parliament and Charter, in the ſeveral Caſes in which Reſiſtance has been made; that as the Meaſures of Government were ſecreted from me till they were executed, I had no Poſſibility of guarding againſt the Violences which have been committed; that I have ſince uſed all the Means in my Power, by the Offers made to the Governor General, to prevent an open Rupture between the Council and the Court; and that you will approve my Reſolution, if there ſhould be any Opening for a Reconciliation conſiſtent with the Maintenance of our Authority, and the Dignity of the Court, to meet them at leaſt Half-way; on the other Hand, if they will perſiſt, to endeavour, as far as in me lays, not to ſubmit to have the Juriſdiction intruſted to the Court, aboliſhed or circumſcribed by an Authority inferior to that from which it was derived.

I have the Honour to be, with the greateſt Reſpect,
My Lord,
Your Lordſhip's, moſt obedient,
and moſt humble Servant,
E. Impey.

Fort William,
2 March, 1780.

March the 3d. Our Term began on the Firſt, and on that and the following Day Attachments were granted againſt Swainſton and Naylor. I ſend the Affidavits on which they oppoſed them. The Sheriff has not yet been ſuffered to ſerve Bomford with the Rule.

Two Writers in the Company's Service immediately after the forcing the Sheriff's People from the Sequeſtration, were ſent to take Accounts of their Behaviour, and collected every Complaint they could get againſt them. The not introducing that Matter into the Defence of Swainſton and Naylor, corroborates my Belief of the Determination not to ſubject Matters of any Kind, which are meant to be urged in England againſt the Court, to a fair Diſcuſſion.

3 March 1780.

COSSIJURAH APPENDIX, N° 27.

To the Honourable Sir Elijah Impey, Knight, Chief Juſtice, and his Companions, Juſtices of the Supreme Court of Judicature at Fort William in Bengal.

The Humble Addreſs of the Attornies of the ſaid Supreme Court of Judicature, whoſe Names are hereunto ſubſcribed.

Honourable Sirs,

THE Attention you have been pleaſed to ſhew towards the Promotion of our Intereſt, emboldens us humbly to repreſent how much the Emoluments of our Situation are reduced, and the Buſineſs of the Court declined, from the Opinion which prevails among the Natives, that the Powers of the Court are limited and checked by the Interference of the Governor General and Council: We feel this the more, as our Number has of late been conſiderably augmented, and the Buſineſs in conſequence diſtributed more generally.—We do aſſure you, that few of us are capable from our Practice to derive any Advantage beyond our neceſſary Diſburſements. In this State we cannot but foreſee, that the Admiſſion of more Attornies would be very injurious to our Fortunes, and would leave us without the Proſpect even of Subſiſtence from our Profeſſion.—Thus circumſtanced, we beg Leave humbly to ſolicit your Interference; and we hope from the Conſideration of the Conſequences that will be the Reſult of increaſing the Liſt of Attornies, that you will be pleaſed to make ſuch Order for the limiting our Number as may be deemed proper.

Signed

W^{m} Smoult.
Fra^{s} Perkins.
Fairfax Moſerby.
H. Honycombe.
Cha. Duncan.
Hen. Swinhoe.
Ralph Uvedale.
Stephen Bagſhaw.
William Johnſon.
S^{t} Tolfry.
Geo. Wroughton.
H. Srank.
G. Foxcroft.
M. Cou.
Ch. Eaton.
Stock Tolfry.

MVSEVM
BRITANNICVM